Volume 2

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1979

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Special Election, November 6, 1979

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

1979–80 Regular Session

Compiled by
BION M. GREGORY
Legislative Counsel

65—3548

CHAPTER 581

An act to amend Section 3903 of, and to add Section 3941 to, the Public Utilities Code, relating to carriers

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1 Section 3903 of the Public Utilities Code is amended to read

3903 In the administration of this chapter the commission shall adhere to the standards promulgated pursuant to Section 202(b) (2) of the Interstate Commerce Act (49 United States Code, Sec 3021(b) (2)), except as otherwise provided in this chapter.

SEC 2 Section 3941 is added to the Public Utilities Code, to read

3941 If any carrier granted registration under this chapter also engages in intrastate operation pursuant to authority issued by the commission, such carrier shall be subject to the requirements of Section 3543 rather than the provisions of Section 3940

CHAPTER 582

An act to amend Section 103222 of the Public Utilities Code, and to amend Sections 27173 5 and 27173 6 of the Streets and Highways Code, relating to competitive bidding

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 103222 of the Public Utilities Code is amended to read

103222 Contracts for the purchase of supplies, equipment, and materials in excess of ten thousand dollars ($10,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in an emergency declared by the vote of seven members of the board

SEC 2 Section 27173 5 of the Streets and Highways Code is amended to read

27173 5 The district shall advertise, pursuant to Section 6066 of the Government Code, for contracts for all vessel repair, maintenance, and alteration work whenever the estimated expenditure therefor is in excess of twenty thousand dollars ($20,000), and for all other construction, repair, maintenance, and alteration work and all similar work, and for all insurance purchased by the district for any reason, except physical damage insurance,

employee benefit insurance, liability insurance, or worker's compensation insurance, whenever the estimated expenditure therefor is in excess of five thousand dollars ($5,000), in (a) at least one newspaper and not more than three newspapers designated by the general manager, which are published in any one county or portion of a county within the district, and (b) by publication for two consecutive insertions in a trade paper of general circulation, published no more than one week apart either in the City of Los Angeles or the City and County of San Francisco, devoted primarily to the dissemination of contract news among contracting firms. The district shall publicly open the bids and award the contract to the lowest responsible bidder.

In case of emergency repairs necessitated by landslide, flood, storm or wind damage, accident, or other casualty, or any other condition which threatens imminent interruption of passenger transportation via district facilities, work may be contracted for a period of not to exceed 30 days after the occurrence or discovery of such emergency without advertising or competitive bidding

SEC. 3 Section 27173 6 of the Streets and Highways Code is amended to read.

27173.6. It shall be unlawful to employ any means to evade the provisions of this chapter requiring contracts to be awarded after advertising and competitive bidding, including the splitting of projects into smaller work orders, the amendment of existing contracts, or the approval of a subcontract or subcontracts let under existing contracts. Every person who willfully violates this section shall be guilty of a misdemeanor.

CHAPTER 583

An act to amend Sections 270.02, 270.03, 270.04, 270.10, 270.11, 270.15, 270 37, 481, 481 3, 484.6, and 489.3 of, to add Section 485.35 to, and to repeal Sections 270 14 and 489 2 of, the Military and Veterans Code, relating to the California National Guard, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Section 270.02 of the Military and Veterans Code is amended to read

270.02 The provisions of this article are applicable, and the benefits conferred thereby are available, to the following National Guard members

(a) Commissioned officers of the grade of captain (0-3) and

below

(b) Warrant officers of the grade of W-4 and below.

(c) Enlisted members of the grade of E-9 and below.

SEC 2. Section 270 03 of the Military and Veterans Code is amended to read:

270 03. (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section.

(c) "Purchaser" means a member of the California National Guard or any person who has entered into a contract of purchase of a farm or home from the department

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions

For purposes of this subdivision, "module" means a section of a

mobilehome at least 10 feet wide and at least 40 feet long

(*l*) "Member" means an individual on active National Guard status and assigned to a federally recognized unit of the California National Guard

SEC 2 5 Section 270 03 of the Military and Veterans Code is amended to read

270.03 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a member of the California National Guard or any person who has entered into a contract of purchase of a farm or home from the department

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions, provided, that

where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

(*l*) "Member" means an individual on active National Guard status and assigned to a federally recognized unit of the California National Guard

(m) "Indian member" means a member as defined in subdivision (*l*) who is in addition a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land.

(n) "Trust land," with respect to an Indian member, includes allotment trust land and tribal trust land.

(o) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation

(p) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band

(q) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs.

SEC. 3 Section 270 04 of the Military and Veterans Code is amended to read·

270 04 The administration of the provisions of this article is vested in the Military Department, except that the department may, pursuant to an agreement or other arrangement executed within 90 days of the effective date of the amendment to this section enacted at the 1979–80 Regular Session of the Legislature, assign the administration of the provisions of this article to the Department of Veterans Affairs or the California Housing Finance Agency after 90 days notice to the Joint Legislative Budget Committee. Any such agreement shall be irrevocable unless modified by subsequent legislation

The department shall adopt rules and regulations in keeping with the purpose of this article to establish preferences in the granting of benefits conferred by this article

SEC 4 Section 270 10 of the Military and Veterans Code is amended to read

270 10 The department may acquire such farm or home from the owner thereof or may contract with a member for the construction of a dwelling house and other improvements for a farm or home, upon the terms agreed if

(a) The department is satisfied of the desirability of the property submitted.

(b) The member has agreed with the department that he or his immediate family will actually reside on the property within 60 days from the date of purchase by the department, or if the residence on the property is not complete on the date of purchase, within 60 days after the residence is completed

(c) The sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements does not exceed fifty-five thousand dollars ($55,000)

(d) Where the department is to contract with a member for the construction of a dwelling house and other buildings, or for the purchase of a mobilehome

(1) The member is the owner in fee of the real property on which the dwelling house and other buildings are to be constructed, or is the owner in fee of the real property or the owner of an undivided interest in common in a portion of a parcel of real property on which a mobilehome is to be situate, and agrees to convey that property to the department without cost

(2) The member has paid a reasonable fee set by the department to cover the cost of such preliminary service of the department as may be necessary to process the application

(3) The member has filed with the department adequate plans and specifications for the improvements to be constructed upon said real property, together with a contract, executed by a contractor licensed by the State of California for the construction of said improvements in accordance with said plans and specifications within eight months after the acquisition of said real property by the department, and a bond executed by the contractor providing for compliance with the terms of said contract and for the payment of materialmen and labor furnishing material or labor on the jobs, executed by a surety company, authorized to do business in the State of California

(4) The plans, specifications, contract and bond are approved by the department

(5) The member has placed in escrow, all sums of money to be advanced by him where the cost is in excess of the maximum that may be expended by the department

As used in this section "immediate family" includes only the following:

Spouse, children, either natural or adoptive, and the parents if they are dependent upon the member for 50 percent or more of their support.

SEC. 5 Section 270.11 of the Military and Veterans Code is amended to read

270 11 The department may purchase property, subject to a participation contract providing for a loan term of not less than 23 years In no event shall the purchase price plus the participation contract exceed fifty-five thousand dollars ($55,000) or equal more

than 95 percent of the market value of the property as determined by department appraisal, whichever is the lower amount.

SEC. 6 Section 270.14 of the Military and Veterans Code is repealed

SEC 7 Section 270 15 of the Military and Veterans Code is amended to read.

270.15. The purchase price of a home to the department shall not exceed the sum of fifty-five thousand dollars ($55,000), except that the purchase price of a mobilehome, as defined in subdivision (k) of Section 270 03, to the department shall not exceed thirty thousand dollars ($30,000), and a member purchasing the home may advance, subject to the provisions of Section 270.14, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required under Section 270.19 to add to the purchase price of the home in fixing the selling price thereof to the member. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds. The purchase price of a farm to the department shall not exceed one hundred twenty thousand dollars ($120,000), and a member purchasing the farm may advance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 270.19 to add to such purchase or contract price to the department in fixing the selling price of the farm to the member.

SEC 8 Section 270 37 of the Military and Veterans Code is amended to read

270 37 (a) The department shall establish the actual interest rate to be paid. To this end the department, by a majority vote of California National Guard Finance Committee members, is empowered to establish a uniform rate of interest payable upon the amount remaining unpaid under any member's purchase contract. The California National Guard Finance Committee shall periodically, at least once each year, make a finding as to the rate of interest to be charged, determined by a floating rate based upon the actual cost of revenue bond sales, plus a certain percent for administrative costs to be determined annually by the committee, taking into consideration the current value of money and the solvency of the California National Guard Members' Farm and Home Building Fund of 1978, and the interest paid on participation contracts to which the interest of the department is subject The California National Guard Finance Committee may raise or lower the effective rate of interest payable under such contracts for any given period as many times and as frequently as it deems to be for the best interest of the department, as well as the contract holders, if in so doing its action is made applicable alike to any and all contracts executed after the effective date of this section, and 90

days' advance notice be given of the time when the new rate of interest is to become effective.

(b) The total amount of any installment payment shall be raised or lowered to reflect a change in the effective rate of interest. However, the department shall, upon request of the purchaser, instead increase or decrease the period fixed by the department for amortization of the purchase price without changing the amount of the installment payment. The department shall provide the purchaser with full information as to the repayment options available to him under this subdivision and, upon request of the purchaser, the financial consequences of each such option. The actual interest rate to be paid on the amount remaining unpaid under any member's purchase contract shall be a rate of interest which, when combined with the interest paid on the unpaid balance of a participation contract to which the department's interest is subject equals the effective rate of interest

SEC. 9. Section 481 of the Military and Veterans Code is amended to read.

481. Revenue bonds may be issued by the department at such times and in such amounts as do not exceed seventy-five million dollars ($75,000,000) for home loans, fifteen million dollars ($15,000,000) for farm loans, and ten million dollars ($10,000,000) for mobilehome loans as the department, with the approval of the California National Guard Finance Committee, may determine. With respect to home loans, not more than twenty-five million dollars ($25,000,000) of revenue bonds may be issued in any 12-month period

SEC. 10. Section 481.3 of the Military and Veterans Code is amended to read:

481.3 All revenue bonds shall bear the facsimile signature of the Commanding General of the California National Guard and the Deputy Commanding General and shall be authenticated by the trustee. The Seal of the California National Guard shall be impressed, mechanically reproduced, or imprinted by facsimile upon each revenue bond The interest coupons attached to any revenue bond shall bear a facsimile of the signature of the Commanding General of the California National Guard. In case any such official whose signature or countersignature appears on the revenue bonds or coupons shall cease to be such official before the revenue bonds so signed or countersigned shall have been actually executed or delivered, such signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until the delivery of the revenue bonds and such revenue bonds and coupons shall be issued and shall be as binding upon the department as though the person who signed such revenue bonds or coupons had been such official on the date borne by the revenue bonds or coupons and on the date of delivery Any such revenue bonds may be signed and sealed on behalf of the department by such person as at the actual date of execution of such revenue bonds shall

be the Commanding General of the California National Guard or the Deputy Commanding General, as the case may be, although on such date as may be borne by such revenue bonds any such person shall not have been such official.

SEC. 11 Section 484.6 of the Military and Veterans Code is amended to read.

484 6 The State Treasurer shall act as trustee for the department and the holders of the revenue bonds, to receive and disburse all the revenues applicable to the payment of the principal of or interest on the revenue bonds, including any reserve fund, sinking fund, or other fund or account established for further securing the revenue bonds. The department may provide in any resolution of issuance for the appointment of a trustee other than the State Treasurer to represent and enforce the rights of holders of the revenue bonds if, and in the manner and under conditions provided in the resolution authorizing the revenue bonds, such trustee is a bank or trust company duly qualified to do business in this state

SEC. 12. Section 485.35 is added to the Military and Veterans Code, to read

485.35. The Supplementary Bond Security Account is hereby created in the California National Guard Members' Farm and Home Building Fund of 1978 Any moneys appropriated to the account shall be used to secure payment of the principal of and interest on outstanding revenue bonds Moneys in the account may be used to directly pay the principal of and interest on revenue bonds as provided by bond resolution. Moneys in the account not needed to meet revenue bond obligations shall be invested by the Pooled Money Investment Board (Section 16480.1 of the Government Code), and all interest income therefrom shall be deposited in the General Fund at the end of each fiscal year.

When all obligations secured by the account are retired, the account shall be dissolved and all moneys therein shall be used first for repayment to the General Fund of the amounts advanced by General Fund appropriations. Any remaining amount shall be transferred to the National Guard Members' Farm and Home Building Fund of 1978 and applied to further the purposes of this chapter

SEC 13 Section 489 2 of the Military and Veterans Code is repealed

SEC. 14 Section 489.3 of the Military and Veterans Code is amended to read

489 3 Whenever a bank or trust company is acting as trustee by reason of any default, or for the protection of the interests of the revenue bondholders, the bank or trust company as such trustee shall take such action as the holders or registered owners of 25 percent in principal amount of all the revenue bonds then outstanding shall request in writing; provided, that the bank or trust company as such trustee may request reasonable security before taking any action so requested.

SEC. 15. The sum of two million five hundred thousand dollars ($2,500,000) is hereby appropriated from the General Fund to the Supplementary Bond Security Account in the National Guard Members' Farm and Home Building Fund of 1978 for the purpose of securing revenue bonds issued pursuant to the California National Guard Members' Revenue Bond Act of 1978 during the fiscal year 1979–80.

SEC. 16. Sections 4, 5, and 7, of this act shall become effective only if Assembly Bill No. 45 of the 1979–80 Regular Session is enacted and amends Sections 987.60, 987.61, and 987.65 of the Military and Veterans Code.

SEC. 17. It is the intent of the Legislature, if this bill and Senate Bill No. 572 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 270.03 of the Military and Veterans Code, and this bill is chaptered after Senate Bill No. 572, that Section 270.03 of the Military and Veterans Code, as amended by Section 2 of this act shall remain operative only until the operative date of Senate Bill No. 572, and that on the operative date of Senate Bill No. 572 Section 270.03 of the Military and Veterans Code as amended by Section 2 of this act be further amended in the form set forth in Section 2.5 of this act to incorporate the changes in Section 270.03 proposed by Senate Bill No. 572. Therefore, Section 2.5 of this act shall become operative only if this bill and Senate Bill No. 572 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 270.03, and this bill is chaptered after Senate Bill No. 572, in which case Section 2.5 of this act shall become operative on the operative date of Senate Bill No. 572.

SEC 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to commence the administration and funding of the California National Guard Members' Farm and Home Purchase Act of 1978 as soon as possible, it is necessary that this act become effective immediately.

CHAPTER 584

An act to add and repeal Article 3 (commencing with Section 10540) to Chapter 4 of Part 2 of Division 2 of Title 2 of, and to amend, add, and repeal Section 19683 of, the Government Code, relating to disclosure and accountability of state employees.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Article 3 (commencing with Section 10540) is added to Chapter 4 of Part 2 of Division 2 of Title 2 of the Government Code, to read:

Article 3. Reporting of Improper Government Activities

10540. This article shall be known as and may be cited as the "Reporting of Improper Government Activities Act."

10541. It is the intent of the Legislature that state employees should disclose, to the extent not expressly prohibited by law, improper government actions.

10542 For the purposes of this chapter:

(a) "Employee" means any individual appointed by the Governor or employed or holding office in a state department or agency.

(b) "Improper governmental action" means any action by a state agency or by an employee which is undertaken in the performance of such employee's official duties, whether or not such action is within the scope of his employment, and which is (1) in violation of any state or federal law, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is economically wasteful, or involves gross misconduct, incompetency or inefficiency.

(c) "Person" means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(d) "Committee" means the Joint Legislative Audit Committee.

10543. (a) An employee may not directly or indirectly use or attempt to use the official authority or influence of such employee for the purpose of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command any person for the purpose of interfering with the right of such person to disclose to the Joint Legislative Audit Committee on matters within the scope of this article.

(b) For the purpose of subdivision (a) of this section, "use of official authority or influence" includes promising to confer, or conferring, any benefit; effecting, or threatening to effect, any reprisal; or taking, or directing others to take, or recommending, processing, or approving, any personnel action, including, but not limited to, appointment, promotion, transfer, assignment, performance evaluation, suspension, or other disciplinary action.

(c) Nothing in this section shall be construed to authorize an individual to disclose information otherwise prohibited by or under law

10544. The committee through the Auditor General shall administer the provisions of this article It shall be the committee's

function to investigate and report improper government actions as it deems proper.

10545. The committee, upon receiving specific information that any employee or state agency has engaged in improper government action, may require the Auditor General to conduct such investigation of the matter as the committee deems appropriate Except in the case of a criminal investigation by a law enforcement agency, the identity of the person providing the information which initiated the investigation shall be kept confidential.

In addition, the committee may, on its own initiative, investigate incidences of improper government action.

10546 If the committee determines that there is reasonable cause to believe that an employee or state agency has engaged in any improper activity, it shall report the nature and details of such activity to the head of the employing agency, or the appropriate appointing authority, and, if appropriate, to the Attorney General, the policy committees of the Senate and Assembly having jurisdiction over the subject involved, and to such other authority as the committee determines appropriate.

The committee shall have no enforcement power In any case in which the committee submits a report of alleged improper activity to the head of the employing agency, such individual shall report to the committee with respect to any action taken by such individual regarding such activity, the first such report being transmitted no later than 30 days after the date of the committee's report and monthly thereafter until final action has been taken If the committee determines that appropriate action is not being taken within a reasonable time, they shall report such determination to the Governor and to the Legislature Every investigation shall be kept confidential unless the committee determines appropriate action is not being taken and reports such determination to the Governor and to the Legislature

This section shall not limit any authority conferred upon the Attorney General or any other department or agency of government to investigate any matter

SEC 2 Section 19683 of the Government Code is amended to read.

19683 No state officer or employee nor any person whatsoever shall directly or indirectly use or threaten to use any official authority or influence in any manner whatsoever which tends to discourage, restrain, interfere with, coerce or discriminate against any other state officer or employee who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Attorney General, or the Joint Legislative Audit Committee pursuant to Article 3 (commencing with Section 10540) of Chapter 4 of Part 2 of Division 2, or any other appropriate authority any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto Any person guilty of such an act may be liable in an action

for civil damages brought against him by the offended party. Notwithstanding the provision of Section 19682, a violation of this section shall not be a misdemeanor

This section shall remain in effect only until January 1, 1982, and as of that date is repealed

SEC. 3 Section 19683 is added to the Government Code, to read·

19683 No state officer or employee nor any person whatsoever shall directly or indirectly use or threaten to use any official authority or influence in any manner whatsoever which tends to discourage, restrain, interfere with, coerce or discriminate against any other state officer or employee who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Attorney General or any other appropriate authority any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto. Any person guilty of such an act may be liable in an action for civil damages brought against him by the offended party. Notwithstanding the provision of Section 19682, a violation of this section shall not be a misdemeanor.

This section shall become operative on January 1, 1982.

SEC. 4. Section 1 of this act shall remain in effect only until January 1, 1982, and on such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date

SEC. 5 It is the intent of the Legislature that amendments to Section 19683 of the Government Code which are made by Section 2 of this act shall remain in effect only until January 1, 1982, and on that date Section 3 of this act shall become operative to restore Section 19683 to the form in which it read immediately prior to the effective date of this act unless the Legislature, prior to January 1, 1982, enacts a bill continuing in existence Article 3 (commencing with Section 10540) of Chapter 4 of Part 2 of Division 2 of Title 2 of the Government Code as contained in Section 1 of this act

---

CHAPTER 585

An act to amend Sections 987.53 and 987.65 of the Military and Veterans Code, relating to veterans.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Section 987.53 of the Military and Veterans Code is amended to read:

987 53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing income sufficient to

provide for payment of the amortized contract installments including principal, interest, and taxes

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode. A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

SEC 1 5 Section 987 53 of the Military and Veterans Code is amended to read·

987 53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing income sufficient to provide for payment of the amortized contract installments including principal, interest, and taxes

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property on which is sited one or more mobilehome modules, or a site in a mobilehome park as defined in Section 18214 of the Health and Safety Code on which one or more mobilehome modules is sited or is to be sited as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

SEC 1 7 Section 987 53 of the Military and Veterans Code is amended to read

987 53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient income to provide payment of the amortized contract installments including

principal, interest, and taxes

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section.

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions; provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

(*l*) "Indian veteran" means a veteran as defined in Section 980 who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase

by the department of a home or farm situated on trust land

(m) "Trust land," with respect to an Indian veteran includes allotment trust land and tribal trust land.

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs

SEC 19 Section 987 53 of the Military and Veterans Code is amended to read.

987.53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient income to provide payment of the amortized contract installments including principal, interest, and taxes

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to

which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is sited one or more mobilehome modules, or a site in a mobilehome park as defined in Section 18214 of the Health and Safety Code on which one or more mobilehome modules is sited or is to be sited as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions; provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Indian veteran" means a veteran as defined in Section 980 who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land.

(m) "Trust land," with respect to an Indian veteran includes allotment trust land and tribal trust land.

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs

SEC. 2. Section 987 65 of the Military and Veterans Code, as amended by Chapter 121 of the Statutes of 1979, is amended to read:

987 65 The purchase price of a home to the department or the sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements shall not exceed the sum of fifty-five thousand dollars ($55,000), except that the purchase price of a mobilehome, as defined in subdivision (k) of Section 987 53, to the department shall not exceed thirty thousand dollars ($30,000), and a veteran purchasing the home may advance,

subject to the provisions of Section 987.64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required under Section 987.69 of this code to add to the purchase price of the home in fixing the selling price thereof to the veteran. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds. The purchase price of a farm to the department shall not exceed one hundred eighty thousand dollars ($180,000), and a veteran purchasing the farm may advance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 987.69 of this code to add to such purchase or contract price to the department in fixing the selling price of the farm to the veteran.

SEC. 2.5. Section 987 65 of the Military and Veterans Code as amended by Chapter 121 of the Statutes of 1979, is amended to read:

987.65. The purchase price of a home to the department or the sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements shall not exceed the sum of fifty-five thousand dollars ($55,000), except that the purchase price of a mobilehome sited on a lot owned by the purchaser shall not exceed thirty thousand dollars ($30,000), or of a mobilehome which is to be sited in a mobilehome park as defined in Section 18214 of the Health and Safety Code shall not exceed twenty-two thousand five hundred dollars ($22,500) and a veteran purchasing the home may advance, subject to the provisions of Section 987 64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required under Section 987 69 of this code to add to the purchase price of the home in fixing the selling price thereof to the veteran. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds. The purchase price of a farm to the department shall not exceed one hundred eighty thousand dollars ($180,000), and a veteran purchasing the farm may advance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 987 69 of this code to add to such purchase or contract price to the department in fixing the selling price of the farm to the veteran

SEC 3 It is the intent of the Legislature that if this bill and Assembly Bill 879 or Senate Bill 572, or both, are chaptered and become effective January 1, 1980, each of the bills amend Section 987 53 of the Military and Veterans 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 879 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53 of the Military and Veterans Code, but Senate Bill 572 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 879, the amendments proposed by both bills shall be given effect and incorporated in Section 987 53 in the form set forth in Section 1 5 of this act. Therefore, if this bill and Assembly Bill 879 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53, this bill is chaptered after Assembly Bill 879, and Senate Bill 572 is not chaptered or as chaptered does not amend that section, Section 1 5 of this act shall be operative and Sections 1, 1 7, and 1 9 of this act shall not become operative.

(2) If this bill and Senate Bill 572 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53 of the Military and Veterans Code, but Assembly Bill 879 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 572, the amendments proposed by both bills shall be given effect and incorporated in Section 987 53 in the form set forth in Section 1 7 of this act. Therefore, if this bill and Senate Bill 572 are both chaptered and become effective January 1, 1980, both bills amend Section 987 53, this bill is chaptered after Senate Bill 572, and Assembly Bill 879 is not chaptered or as chaptered does not amend that section, Section 1 7 shall be operative and Sections 1, 1 5, and 1 9 of this act shall not become operative

(3) If this bill and Assembly Bill 879 and Senate Bill 572 are all chaptered and become effective January 1, 1980, all three bills amend Section 987 53 of the Military and Veterans Code, and this bill is chaptered after Assembly Bill 879 and Senate Bill 572, the amendments proposed by all three bills shall be given effect and incorporated in Section 987.53 in the form set forth in Section 1 9 of this act Therefore, if this bill and Assembly Bill 879 and Senate Bill 572 are all chaptered and become effective January 1, 1980, all three bills amend Section 987.53 of the Military and Veterans Code, and this bill is chaptered after Assembly Bill 879 and Senate Bill 572, Section 1 9 of this act shall be operative and Sections 1, 1 5, and 1.7 of this act shall not become operative

SEC 4 It is the intent of the Legislature, if this bill and Assembly Bill No 879 are both chaptered and become effective January 1, 1980, both bills amend Section 987 65 of the Military and Veterans Code and this bill is chaptered after Assembly Bill No. 879, that the amendments to Section 987 65 proposed by both bills be given effect and incorporated in Section 987 65 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 879 are both chaptered and become effective January 1, 1980, both amend Section 987 65, and this bill is chaptered after Assembly Bill No 879, in which case Section 2 of this act shall not become operative

CHAPTER 586

An act to amend Sections 7202 and 7203 of the Elections Code, relating to elections

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Section 7202 of the Elections Code is amended to read·

7202. (a) All candidates shall be listed on one ballot and, except as provided in subdivision (b), if any candidate receives a majority of all votes cast, he shall be declared elected, and no special general election shall be held.

(b) If only one candidate qualifies to have his or her name printed on the special general election ballot, that candidate shall be declared elected, and no special general election shall be held, even if that candidate received less than a majority of the votes cast.

SEC. 2 Section 7203 of the Elections Code is amended to read.

7203. (a) If no candidate receives a majority of votes cast, the name of that candidate of each qualified political party who receives the most votes cast for all candidates of that party shall be placed on the special general election ballot as the candidate of that party.

(b) In addition to the candidates referred to in subdivision (a), each candidate who has qualified for the ballot by virtue of the independent nomination procedure pursuant to Chapter 6 (commencing with Section 6800) shall be placed on the special general election ballot as an independent candidate, provided, however, if two or more such candidates are recorded on their affidavits of registration as being affiliated with the same political body, only the candidate with the greatest number of votes shall be placed on the special general election ballot

---

CHAPTER 587

An act to amend Section 50517 5 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 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1 Section 50517 5 of the Health and Safety Code is amended to read

50517 5 (a) The department shall establish a Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants shall be made to local public entities and nonprofit corporations for the construction or rehabilitation of housing for agricultural employees and their families Under such program, grants may also be made for the purchase of land in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to such housing. No part of a grant made pursuant to this section may be used for project organization or planning.

Such program shall be administered by the Director of Housing and Community Development and such officers and employees of the department as he may designate It is the intent of the Legislature that, in administering the program, the director shall facilitate, to the greatest extent possible, the construction and rehabilitation of permanent dwellings for year-around occupancy and ownership by agricultural employees, including ownership of the sites upon which such dwellings are located.

(b) The Farmworker Housing Grant Fund is hereby created in the State Treasury. All money in the fund is continuously appropriated to the department for making grants pursuant to this section and for costs incurred by the department in administering such grant program.

(c) Grants made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents such as may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds granted pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that such increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section

(4) Require as a condition precedent to a grant of funds that the grantee be record owner in fee of the assisted real property and that such grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee The agreement shall include the conditions under

which the funds advanced may be repaid The agreement shall include provisions for a lien on the assisted real property in favor of the State of California for the purpose of securing performance of the agreement The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development

In the event that funds granted pursuant to this section constitute less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply In no event may such regulations provide for the application of the agreement to a percentage of units in a project which is less than the percentage of total development costs which funds granted pursuant to this section represent

Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of Housing and Community Development The notice of lien shall refer to the agreement required by this paragraph for which it secures and it shall include a legal description of the assisted real property which is subject to the lien The notice of lien shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development The department shall adopt by regulation criteria for the determination of the lien period Such regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction

Pursuant to regulations adopted by the department, the department is authorized to execute and cause to be recorded in the office of the recorder of the county, in which a notice of lien has been recorded, a subordination of the lien The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing The recitals contained in such subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon

(5) Regulate the terms of occupancy agreements to be used in housing assisted pursuant to this section

(6) Provide bilingual services and publications, or require grantees to do so, as necessary to implement the purposes of this section

(7) The agreement between the department and the grantee shall provide, among other things, that

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the

grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant funds.

(B) Upon the sale or conveyance of the real property, or any part thereof, for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that such person agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes the property subject to the lien provided pursuant to paragraph (4), except that such lien shall at the time of the transfer of the property to the new owner be extended for such additional lien period, as determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner However, such lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4) of this subdivision.

(e) The department may do any of the following with respect to grantees·

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit which is occupied, whether or not any occupant is actually present, without the consent of the occupant

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order such repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing

(f) The department shall include in its annual report required by Section 50408, a current report of the Farmworker Housing Grant Program. Such report shall include, but need not be limited to: (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants made to each nonprofit corporation and local public entity in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant under this section, and an identification of each such source, and (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance

(g) As used in this section

(1) "Nonprofit corporation" means an entity incorporated

pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a stock cooperative as defined in Section 11003 2 of the Business and Professions Code

(2) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140 4 of the Labor Code

(3) "Housing" may include, but need not be limited to, conventionally constructed units, factory-built units constructed in accordance with the provisions of Part 6 (commencing with Section 19960) of Division 13 of this code, and mobilehome units constructed in accordance with the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U S C , Sec 5401 et seq)

SEC 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 delay in implementing necessary changes in the Farmworker Housing Grant Program, it is necessary that this act go into immediate effect

---

CHAPTER 588

An act to add Section 203 1 to the Revenue and Taxation Code, relating to taxation

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1 Section 203 1 is added to the Revenue and Taxation Code, to read

203 1 Personal property owned or used by a nonprofit corporation operating a student bookstore affiliated with an educational institution, as defined in Section 203, is, for purposes of this section, deemed property belonging to such educational institution and shall be exempt from taxation

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

CHAPTER 589

An act to amend Sections 92.6, 94.5, and 2156 of, and to repeal Sections 149.1, 149 2, 190.02, and 2181 of, the Streets and Highways Code, relating to transportation.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1 Section 92.6 of the Streets and Highways Code is amended to read:

92.6. At such locations as shall be determined by the department to be appropriate, screening shall be installed and maintained on state freeway overpasses on which pedestrians are allowed, in order to prevent objects from being dropped or thrown upon vehicles passing underneath. First consideration shall be given to freeway overpasses in urban areas.

SEC. 2. Section 94.5 of the Streets and Highways Code is amended to read:

94.5. The department may provide, in any construction contract awarded to the lowest bidder, for the payment of extra compensation to the contractor for the cost reduction changes in the plans and specifications for the project made pursuant to a proposal submitted by the contractor. The extra compensation to the contractor shall be 50 percent of the net savings in construction costs as determined by the department.

SEC 3 Section 149.1 of the Streets and Highways Code is repealed

SEC. 4. Section 149.2 of the Streets and Highways Code is repealed.

SEC. 5 Section 190 02 of the Streets and Highways Code is repealed

SEC 6. Section 2156 of the Streets and Highways Code is amended to read·

2156. (a) On or before May 1, 1981, and on or before May 1st of each four years thereafter, every county and city shall transmit to the department a report setting forth in such detail as the department may require the following

(1) The progress it has made in the construction or improvement of its road or street system

(2) An estimate of its road or street needs for the next five years

(3) A projected estimate of its road or street needs for the next 10 years

(b) The department shall review and audit the information and estimates contained in the reports submitted by the counties and cities The department shall combine all of such information and estimates in a report which shall be submitted to the Legislature at

or prior to January 1, 1982, and each four years thereafter, through such interim committee or committees as may be designated by legislative resolution.

(c) The department shall cooperate and confer with the Departmental Transportation Advisory Committee in the preparation of its report required by this section

SEC 7 Section 2181 of the Streets and Highways Code is repealed.

CHAPTER 590

An act to add Article 6.1 (commencing with Section 402) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to vector control.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

The people of the State of California do enact as follows

SECTION 1. Article 6.1 (commencing with Section 402) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read·

Article 6 1 Vector Biology and Control

402 The State Department of Health Services shall maintain a program of vector biology and control including, but not limited to, the following.

(a) Providing consultation and assistance to local vector control agencies in developing and conducting programs for the prevention and control of vectors.

(b) Surveillance of vectors and vector-borne diseases

(c) Coordinating and conducting emergency vector control, as required.

(d) Training and certifying government agency vector control technicians.

(e) Disseminating information to the public regarding protection from vectors and vector-borne diseases

402 1 "Vector," as used in this article, means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, other insects, ticks, mites, and rats

CHAPTER 591

An act to amend Section 65302 of the Government Code, relating to local planning

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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 50459 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 Such element shall consider all aspects of current housing technology, to include provisions for not only site-built housing, but also manufactured housing, including mobilehomes and modular homes

(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 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the Legislature finds and declares that there are no new duties, obligations, or responsibilities imposed on local government by this act that require reimbursement It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 592

An act to amend Sections 86105, 86107, 86108, and 86110 of, to add Section 86111 to, and to repeal Sections 81005 1 and 86106 of, the Government Code, relating to lobbying

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 81005 1 of the Government Code is repealed

SEC 2 Section 86105 of the Government Code is amended to read

86105 Every lobbyist who incurs expenses or expects to incur expenses in connection with activities as a lobbyist shall keep such detailed accounts, records, bills and receipts as shall be required by regulations adopted by the commission to expedite the performance of all obligations imposed by this chapter

SEC 3 Section 86106 of the Government Code is repealed

SEC 4 Section 86107 of the Government Code is amended to read

86107. Every lobbyist shall file periodic reports containing:

(a) The monetary value of all payments, including but not limited to salary, fees, and reimbursement of expenses, received in consideration for or directly or indirectly in support of or in connection with influencing legislative or administrative action, and the full name and address of each person from whom amounts or things of value have been received and the total monetary value received from each person;

(b) In the case of expenses which benefit in whole or in part any elective state official, legislative official, agency official, state candidate or member of their immediate family, the date and amount of each expense incurred during the period, together with the full name and address of the payee, a specific description of the consideration, if any, for which the expense was incurred and, the full name and official position, if any, of each beneficiary if the beneficiary is other than the payee or the lobbyist, and the amount paid for each person In the case of any expense which covers more than one item, all information shall be shown that would be required if a separate expense had been made for each item The commission may by regulation provide for the reporting of other lobbying expenses;

(c) The total amount of payments during the period,

(d) The name and official position of each elective state official, legislative official and agency official, the name of each state candidate, and the name of each member of the immediate family of any such official or candidate with whom the lobbyist has engaged in an exchange of money, goods, services or anything of value and the nature and date of each such exchange and the monetary values exchanged;

(e) The name and address of any business entity in which the lobbyist knows or has reason to know that an elective state official, legislative official, agency official or state candidate is a proprietor, partner, director, officer or manager, or has more than a fifty percent ownership interest, with whom the lobbyist has engaged in an exchange of money, goods, services or anything of value and the nature and date of each exchange and the monetary value exchanged, if the total value of such exchanges is five hundred dollars ($500) or more in a calendar year;

(f) A specific description of legislative or administrative action which the lobbyist has influenced or attempted to influence, and the agencies involved, if any;

(g) Any other information required by the commission consistent with the purposes and provisions of this chapter.

SEC 5. Section 86108 of the Government Code is amended to read

86108. Subject to the exceptions in Section 86300, the following persons shall file the statements required by Section 86109·

(a) Any person who employs or contracts for the services of one or more lobbyists, whether independently or jointly with other

persons, and

(b) Any person who directly or indirectly makes payments to influence legislative or administrative action of two thousand five hundred dollars ($2,500) or more in value in any calendar quarter, unless all of the payments are of the type described in Section 82045(c)

SEC 6 Section 86110 of the Government Code is amended to read.

86110. Reports required by Sections 86107 and 86109 shall be filed during the month following each calendar quarter The period covered shall be from the beginning of the calendar year through the last day of the quarter prior to the month during which the report is filed, except that the period covered shall not include any quarters covered in previous reports filed by the same person. When total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire calendar year to date

SEC 7 Section 86111 is added to the Government Code, to read.

86111 Reports and statements required by Chapter 6 shall be filed as follows· the original and one copy with the Secretary of State

SEC 8 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 9 The amendment effected by this act shall not be construed to deprive any person or public agency of any substantial right or duty which would have existed or hereafter exists had such amendment not been effected

---

CHAPTER 593

An act to amend Sections 1640 and 10010.5 of, and to add Section 304 5 to, the Elections Code, relating to elections

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1 Section 315 of the Elections Code is amended to read

315 In lieu of executing a new affidavit of registration for a change of address within the county the county clerk shall accept a notice or letter of the change of address signed by a voter as he is registered

The county clerk shall accept such notifications postmarked not less than 29 days before an election and shall change the address on the voter's affidavit of registration accordingly Any requests for

change of address postmarked less than 29 days prior to an election shall not be applicable to that election but shall apply to all subsequent elections.

SEC. 2. Section 1640 of the Elections Code is amended to read:

1640. Following the appointment of members of precinct boards, the clerk shall instruct inspectors so appointed concerning their duties in connection with the conduct of the election which instruction shall include (a) a summary of the rights of voters, (b) the lawful grounds for challenge, (c) the proper tabulating procedures, (d) specific directions that the polls shall be kept open to the public during voting hours and throughout the period required for the tabulation of the vote, and (e) such other subjects as shall assist the inspectors in carrying out their duties.

No person shall serve as an inspector of a precinct board at the election unless instruction has been received in accordance with this section, except that in the case of the emergency disability of a regular inspector, substitute inspectors shall be given such instruction as may be found necessary by the clerk.

At the request of the clerk, the legislative body may contract with any qualified person or organization for purposes of instructing inspectors in accordance with this section.

SEC. 3. Section 10010.5 of the Elections Code is amended to read:

10010.5. In each county, the county central committee of each qualified political party may supply to its county clerk, not less than 60 days prior to the election, a party contributor envelope to be included in the mailing of the sample ballot to each of that political party's registered voters in the county. The clerk shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by such inclusion. The clerk may, prior to acting pursuant to this section, require the county committee to post a bond to ensure such reimbursement.

Each envelope shall contain the name and address of the contributor and shall contain language which informs the contributor of the manner in which the money received shall be spent. The language on the envelope shall not contain words critical of any other political party.

All funds received by the return of such party contributor envelopes shall be kept separate from all other funds and shall be kept in a fund (account) to be established in each county under a trusteeship consisting of the chairman and treasurer of the county central committee plus a third trustee resident in the respective county to be appointed by the chairman of the state central committee. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and the portion allocated to candidates shall be disbursed only to candidates for state office.

In the case of the Democratic Party and the Republican Party all such funds received shall, in turn, be paid out in the following manner: one-third to the state central committee of the party,

one-third to the county central committee of the party for that county, and one-third divided equally among the nominees of the party to represent congressional, State Senate and Assembly districts located in the county. In the event that the State Senate seat is not up for election, the share for that office shall be allotted equally between the nominees for Congress and the Assembly.

In the event that a district is located only partially within a county, the nominee of the party representing such district shall receive a proportionate share of the money allocated to nominees based on the population of that portion of the district which is located within the county.

Nothing in this section shall be construed to require the county central committee of one party to disburse funds received pursuant to this section to a state or county central committee or nominee of another party.

CHAPTER 594

An act to amend Sections 5073, 5210, 6055, 6511, 6563, 6565, 6566, 6704, 6705.7, 7155.2, 7172, 7177, and 8703.2 of, to add Sections 5067.5 and 7177.5 to, and to repeal Section 6054 of, the Financial Code, relating to savings and loan associations.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Section 5067.5 is added to the Financial Code, to read·

5067 5. "Single-family dwelling" means a structure designed for residential use for one family or real property of the type described in subdivisions (a), (b) or (c) of Section 7153.1

SEC. 2. Section 5073 of the Financial Code is amended to read:

5073. "Member of the immediate family" of any person means the spouse, and the children, parents, sisters and brothers and anyone to whom any of the foregoing are married, if any such relative is a member of such person's household. However, for the purposes of Sections 7177, 7178, 7179, and 7180, "members of the immediate family" means the spouse, and the children, parents, sisters, and brothers, and anyone to whom any of the foregoing are married, even though such relative is not a member of such person's household, provided that this sentence shall not apply to a loan secured by a single-family dwelling owned and occupied by the borrower as principal residence.

SEC 3 Section 5210 of the Financial Code is amended to read:

5210. Neither the commissioner nor any deputy, attorney, examiner, accountant, or appraiser shall be or become indebted

directly or indirectly, as borrower, endorser, surety or guarantor, or sell, or otherwise dispose of any loan or investment to any association under the commissioner's supervision or subject to the commissioner's examination, except that any person named herein may remain indebted to an association under the commissioner's supervision or subject to the commissioner's examination to the extent of a loan secured by a single-family dwelling, or a mobile home, owned and occupied by the named person as his or her principal residence, if such indebtedness was incurred by the named person prior to his or her applying for employment with the department

SEC 4 Section 6054 of the Financial Code is repealed.

SEC 5 Section 6055 of the Financial Code is amended to read:

6055 The commissioner, upon a hearing held upon at least 15 days' notice to the association, may revoke the license for a service office if he determines that the activities of the association at the service office have not been confined to the activities permitted pursuant to Section 5056.5.

SEC 6. Section 6511 of the Financial Code is amended to read

6511 The directors may, under the regulations prescribed by the bylaws, retire shares, other than fixed-rate, fixed-term shares, by enforcing the withdrawal of the shares If the withdrawal of any shares is to be enforced, the holders of such shares shall be given 30 days' notice and be paid the amount actually paid in plus the full amount of dividends applicable thereto to the date of retirement The notice shall expressly state that dividends cease on the date fixed for retirement. The aggregate amount required to be paid by this section is denominated the retirement price.

SEC. 7 Section 6563 of the Financial Code is amended to read.

6563 Investment certificates issued after August 14, 1931, are subject to redemption, in whole or in part at the option of the association, by giving the holder at least 30 days' notice of such intended redemption, except that no fixed-rate, fixed-term certificate shall be subject to redemption The notice of redemption shall expressly state that interest on such investment certificates ceases on the date fixed for redemption

SEC 8 Section 6565 of the Financial Code is amended to read·

6565 All redeemable investment certificates issued after August 14, 1931, shall expressly state that such certificates are subject to redemption, and shall state the period of notice which is required for redemption If there is an initial period in which the certificate may not be redeemed, the investment certificate shall also state that fact and the length of such initial period.

SEC 9. Section 6566 of the Financial Code is amended to read.

6566 The redemption price of all redeemable investment certificates is the value of the certificate at the date fixed for redemption If the date fixed for redemption of investment certificates is not a date on which interest is to be paid or credited, interest accrued from the last date interest was paid or credited shall

be prorated and shall be based on the rate of return for the current period if such rate has been determined. If the rate has not been determined for the current period, the amount shall be based on the rate of return determined for the latest previous period for which such rate was determined.

SEC. 10. Section 6704 of the Financial Code is amended to read:

6704 An association may enter into or assume leases covering real property used or to be used in connection with the business of such association. No association shall enter into or assume leases providing in the aggregate for rental payments in any one year in excess of 5 percent of the difference between its statutory net worth and any amount invested in real property under subdivision (a) of Section 6702 without the approval of two-thirds of the directors and the written approval of the commissioner.

SEC. 11 Section 6705.7 of the Financial Code is amended to read:

6705 7. Subject to the rules and regulations of the commissioner, an association may invest an amount not in excess of 2 percent of its total assets in loans, advances of credit, and interests therein, secured by commercial real property which are not otherwise authorized

SEC 12. Section 7155 2 of the Financial Code is amended to read:

7155 2 In the event any association violates any provision of Sections 6705, 6705.1, 6705.2, 6705.3, 6705.4, 6705.5, 6705.6, 6706, 7171, and 7155, the commissioner, in addition to any action otherwise authorized by this division, may issue an order to the association that except with the consent of the commissioner the association make no further investments under the authority of Sections 6705 or 7155 for a period of time set forth in the order, which period of time shall not exceed 12 months from the date of the order or from the date on which the association shall cease the violation, whichever is later, and the order shall have the same force and effect as an order issued pursuant to Section 9000 of this division. Any order issued pursuant to this section may at any time be revoked, suspended, amended, or terminated by the commissioner.

SEC. 13. Section 7172 of the Financial Code is amended to read:

7172 An association shall not make any one loan in an amount exceeding one hundred twenty-five thousand dollars ($125,000) principal if the loan exceeds 1 percent of the book value of the association's assets unless consent is obtained from the commissioner The provisions of this section are subject to the provisions of Section 7104.

SEC. 14. Section 7177 of the Financial Code is amended to read

7177. Except as provided in Section 7177.5, no association knowingly shall do any of the following

(a) Directly or indirectly make any loans to a substantial stockholder, or to any officer, director or employee of such association or of such substantial stockholder, or to any member of the immediate family of the persons above enumerated, either for himself or as agent or as partner of another, other than loans wholly secured by the pledge of its shares or investment certificates.

(b) Acquire any loans from any of the persons enumerated in subdivision (a) of this section

(c) Make any loans, the proceeds of which are intended to inure to the benefit of any of the persons enumerated in subdivision (a) of this section, except that a loan may be made to a purchaser in connection with the purchase of a single-family dwelling or mobilehome which is owned and occupied as a principal residence by a salaried officer or employee.

SEC 15 Section 7177 5 is added to the Financial Code, to read.

7177 5 An association may make or acquire a loan to a salaried officer or employee of the association if the following conditions are met

(a) The loan is secured by a single-family dwelling or mobile home owned and occupied by the borrower as principal residence

(b) If the borrower is an officer, the loan is approved in advance by a resolution approved by a majority (with no director having an interest in the transaction voting) of the entire board of directors of the association.

SEC 16 Section 8703 2 of the Financial Code is amended to read:

8703 2 Each association granting a single loan for more than one hundred fifty thousand dollars ($150,000), or total loans to one borrower in excess of two hundred fifty thousand dollars ($250,000), shall obtain a financial statement from the borrower The financial statement shall be signed by the borrower under penalty of perjury and shall state that it was prepared prior to, and submitted for the purpose of, obtaining a loan or loans from the association When the borrower is not a natural person, the general partners of a partnership, the substantial stockholders of a corporation, or the major owners of any other type of business entity shall be disclosed on the financial statement

---

CHAPTER 595

An act to amend Section 10177 of, and to add Section 10159 2 to, the Business and Professions Code, relating to real estate.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Section 10159 2 is added to the Business and Professions Code, to read

10159 2 (a) The officer designated by a corporate broker licensee pursuant to Section 10211 shall be responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of this division, including the

supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required

(b) A corporate broker licensee that has procured additional licenses in accordance with Section 10158 through officers other than the officer designated pursuant to Section 10211 may, by appropriate resolution of its board of directors, assign supervisory responsibility over salespersons licensed to the corporation to its broker-officers

(c) A certified copy of any resolution of the board of directors assigning supervisory responsibility over real estate salespersons licensed to the corporation shall be filed with the Real Estate Commissioner within five days after the adoption or modification thereof.

SEC 2 Section 10177 of the Business and Professions Code is amended to read.

10177 The commissioner may suspend or revoke the license of any real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or any salesman, by fraud, misrepresentation or deceit, or by making any material misstatement of fact in an application for a real estate license, license renewal or reinstatement.

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence, or of a subsequent order under the provision of Section 1203 4 of the Penal Code allowing such licensee to withdraw his plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his business, or any business opportunity or any land or subdivision (as defined in Chapter 1 (commencing with Section 11000) of Part 2 of this division) offered for sale

(d) Willfully disregarded or violated any of the provisions of the Real Estate Law (commencing with Section 10000 of this code) or of Chapter 1 (commencing with Section 11000) of Part 2 of this division or of the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 of Part 2 of this division

(e) Willfully used the term "realtor" or any trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(f) Acted or conducted himself in a manner which would have warranted the denial of his application for a real estate license

(g) Demonstrated negligence or incompetence in performing

any act for which he is required to hold a license.

(h) If, as a broker licensee, failed to exercise reasonable supervision over the activities of his salespersons; or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

(i) Has used his employment by a governmental agency in a capacity giving access to records, other than public records, in such manner as to violate the confidential nature of such records.

(j) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in any order granting a restricted license.

(*l*) Solicited or induced the sale, lease or the listing for sale or lease, of residential property on the ground, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools, due to the present or prospective entry into the neighborhood of a person or persons of another race, color, religion, ancestry or national origin.

(m) Violated any of the provisions of the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or any regulations of the Commissioner of Corporations pertaining thereto.

(n) Violated any of the provisions of the Corporations Code or of the regulations of the Commissioner of Corporations relating to securities as specified in Section 25206 of the Corporations Code.

SEC. 3. This act shall become operative on July 1, 1980.

CHAPTER 596

An act to amend Section 252 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Section 252 of the Welfare and Institutions Code is amended to read:

252. At any time prior to the expiration of 10 days after service of a written copy of the order and findings of a referee, a minor or his parent or guardian may apply to the juvenile court for a rehearing Such application may be directed to all or to any specified part of the order or findings, and shall contain a statement of the reasons such rehearing is requested. If all of the proceedings before the referee have been taken down by an official reporter, the judge

of the juvenile court may, after reading the transcript of such proceedings, grant or deny such application. If proceedings before the referee have not been taken down by an official reporter, such application shall be granted as of right. If an application for rehearing is not granted, denied, or extended within 20 days following the date of its receipt, it shall be deemed granted. However, the court, for good cause, may extend such period beyond 20 days, but not in any event beyond 45 days, following the date of receipt of the application, at which time the application for rehearing shall be deemed granted unless it is denied within such period. All decisions to grant or deny the application, or to extend the period, shall be expressly made in a written minute order with copies provided to the minor or his parent or guardian, and to the attorneys of record.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under either Section 2231 or 2234 of the Revenue and Taxation Code because this act merely affirms for the state that which has been declared existing law or regulation by action of the courts

---

CHAPTER 597

An act to repeal Sections 4456 and 4456.1 of, and to add Sections 4456 and 4456 1 to, the Vehicle Code, relating to vehicles

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Section 4456 of the Vehicle Code is repealed.

SEC. 2 Section 4456 is added to the Vehicle Code, to read:

4456. (a) When selling a vehicle, dealers and lessor-retailers shall use numbered report-of-sale forms issued by the department. The forms shall be used in accordance with the following terms and conditions

(1) A copy of the report of sale shall be displayed on the vehicle before the vehicle is delivered to the purchaser

(2) All fees and penalties due to register or transfer registration of the vehicle shall be paid to the department within 20 days from the date of sale Penalties due for noncompliance with this paragraph shall be paid by the dealer or lessor-retailer The dealer or lessor-retailer shall not charge the purchaser for such penalties.

(3) The sale shall be reported pursuant to Section 5901

(4) An application in proper form to register or transfer registration of the vehicle shall be submitted to the department. Applications for new vehicles shall be submitted within 20 days from the date of sale Applications for used vehicles shall be submitted within 30 days from the date of sale

(b) A vehicle displaying a copy of the report of sale may be operated without license plates or registration card until the license plates and registration card are received by the purchaser.

SEC. 3. Section 4456 1 of the Vehicle Code is repealed.

SEC. 4. Section 4456.1 is added to the Vehicle Code, to read:

4456.1. (a) A dealer or lessor-retailer who violates paragraph 1, 2, or 3 of subdivision (a) of Section 4456 shall pay to the department an administrative service fee of five dollars ($5) for each violation.

(b) A dealer or lessor-retailer who violates paragraph 4 of subdivision (a) of Section 4456 when selling a new vehicle shall pay to the department an administrative service fee as follows:

(1) If the application is submitted after 20 days but within 30 days from the date of sale—five dollars ($5).

(2) If the application is submitted after 30 days but within 40 days from the date of sale—ten dollars ($10).

(3) If the application is submitted more than 40 days from the date of sale—fifteen dollars ($15).

(c) A dealer or lessor-retailer who violates paragraph 4 of subdivision (a) of Section 4456 when selling a used vehicle shall pay to the department an administrative service fee as follows:

(1) If the application is submitted after 30 days but within 40 days from the date of sale—ten dollars ($10).

(2) If the application is submitted more than 40 days from the date of sale—fifteen dollars ($15).

(d) Each violation of paragraph 1, 2, or 3 of subdivision (a) of Section 4456 shall be, in addition to the obligation to pay an administrative service fee, a separate cause for discipline pursuant to Section 11613 or Section 11705.

(e) Failure to submit the application required by paragraph 4 of subdivision (a) of Section 4456 within 40 days from the date of sale shall be in addition to the obligation to pay an administrative service fee, a separate cause for discipline pursuant to Section 11613 or Section 11705.

(f) Nonpayment of an administrative service fee within 30 days after written demand from the department shall be a separate cause for discipline pursuant to Section 11613 or Section 11705.

CHAPTER 598

An act relating to aviation

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. That allocation of thirty-five thousand nine hundred nine dollars and fifty-two cents ($35,909.52) made from the Aeronautics Account in the State Transportation Fund by the Department of Transportation to the City of Tulare and expended by the city for airport purposes is hereby ratified, validated, confirmed, and declared legally effective for all purposes; provided, that the city establishes and maintains a separate aviation fund or account for the deposit of funds allocated from the Aeronautics Account in the State Transportation Fund.

SEC. 2. The Legislature finds and declares that Section 1 of this act is necessary since special facts and circumstances applicable to the City of Tulare, and not generally applicable, make the accomplishment of this purpose impossible by any general law. There exists a dispute as to the validity of certain allocations made by the Department of Transportation to the City of Tulare, prior to the 1973–74 fiscal year from the Aeronautics Account in the State Transportation Fund for airport purposes based on a good faith expenditure of these funds together with an equal amount of county funds. The Legislature further finds and declares that this is the only such expenditure of funds involved, that the purpose of this act is impossible to accomplish by any general law, and that special legislation applicable only to the City of Tulare, is therefore necessary

---

CHAPTER 599

An act to amend Sections 19621 and 19621.1 of the Business and Professions Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

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

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

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

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

(c) To the Department of Food and Agriculture for the contributions, or the cost of benefits in lieu of contributions, payable

to the Unemployment Fund by all entities conducting fairs, including county, district, combined county and district, and citrus fruit fairs receiving funds pursuant to this article, as a result of unemployment insurance coverage pursuant to Section 605 of the Unemployment Insurance Code.

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

SEC. 2. Section 19621 1 of the Business and Professions Code is amended to read.

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

SEC 3 The sum of two hundred twenty-five thousand dollars ($225,000) is hereby appropriated from the Fair and Exposition Fund to the Department of Food and Agriculture for allocation and disbursement to all entities conducting fairs, including county, district, combined county and district, and citrus fairs, which are public entities as defined in Section 605 of the Unemployment Insurance Code, for the cost of contributions, or the cost of benefits in lieu of contributions, incurred by such agencies since January 1, 1978, in financing unemployment compensation insurance benefits for employees of such agencies

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 county, district, combined county and district, and citrus fairs with the funds to meet their financial obligations, it is necessary that this statute take effect immediately

---

CHAPTER 600

An act to amend Section 3051 of, and to add Chapter 6 7 (commencing with Section 3080) to Title 14 of Part 4 of Division 3 of, the Civil Code, relating to livestock liens.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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 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 Chapter 6.7 (commencing with Section 3080) is added to Title 14 of Part 4 of Division 3 of the Civil Code, to read·

CHAPTER 6.7. LIVESTOCK SERVICE LIEN

3080. As used in this chapter, the following definitions shall apply:

(a) "Livestock" means any cattle, sheep, swine, goat, or horse, mule, or other equine.

(b) "Livestock servicer" means any individual, corporation, partnership, joint venture, cooperative, association or any other organization or entity which provides livestock services.

(c) "Livestock services" means any and all grazing, feeding, boarding, general care, which includes animal health services,

obtained or provided by the livestock servicer, or his employee, transportation or other services rendered by a person to livestock for the owner of livestock, or for any person acting by or under the owner's authority

3080.01. A livestock servicer shall have a general lien upon the livestock in its possession to secure the performance of all obligations of the owner of the livestock to the livestock servicer for both of the following:

(a) The provision of livestock services to the livestock in possession of the livestock servicer.

(b) The provision of livestock services to other livestock for which livestock services were provided in connection with or as part of the same livestock service transaction, if such livestock services were provided within the immediately preceding 12 months prior to the date upon which the lien arose. The lien shall have priority over all other liens upon and security interests in the livestock, shall arise as the charges for livestock services become due, and shall be dependent upon possession. The lien shall secure the owner's contractual obligations to the lienholder for the provision of livestock services, the lienholder's reasonable charges for the provision of livestock services after the lien has arisen as set forth in Section 3080 02, and the lienholder's costs of lien enforcement, including attorney's fees.

3080 02 In addition to any other rights and remedies provided by law, a lienholder may:

(a) Retain possession of the livestock and charge the owner for the reasonable value of providing livestock services to the livestock until the owner's obligations secured by the lien have been satisfied

(b) Proceed to sell all or any portion of the livestock pursuant to Section 3080 16 if:

(1) A judicial order authorizing sale has been entered pursuant to Section 3080 06,

(2) A judgment authorizing sale has been entered in favor of the lienholder on the claim which gives rise to the lien, or

(3) The owner of the livestock has released, after the lien has arisen, its interest in the livestock in the form prescribed by Section 3080 20

(c) A lienholder may commence a legal action on its claim against the owner of the livestock or any other person indebted to the lienholder for services to the livestock and reduce the claim to judgment. When the lienholder has reduced the claim to judgment, any lien or levy or other form of enforcement which may be made upon the livestock by virtue of any execution based upon the judgment shall relate back to the attachment of and have the same priority as the livestock service lien The lienholder may purchase at a judicial sale held pursuant to the execution on the judgment and thereafter hold the livestock free of any liens upon or security interests in the livestock

3080 03 Upon the filing of the complaint, or at any time

thereafter prior to judgment, the lienholder may apply to the court in which the action was commenced for an order authorizing sale of livestock

(a) The application shall include all of the following

(1) A statement showing that the sale is sought pursuant to this chapter to enforce a livestock service lien,

(2) A statement of the amount the lienholder seeks to recover from the defendant and the date that amount became due,

(3) A statement setting forth the reasons why a sale should be held prior to judgment,

(4) A description of the livestock to be sold and an estimate of the fair market value thereof, and

(5) A statement of the manner in which the lienholder intends to sell the livestock The statement shall include, but not be limited to, whether the sale will be public or private, the amount of proceeds expected from the sale, and, why the sale, if authorized, would conform to the standard of commercial reasonableness set forth in Section 3080 16

(b) The application shall be supported by an affidavit or affidavits showing that on the facts presented therein the lienholder would be entitled to a judgment on the claim upon which the action is brought

(c) A hearing shall be held in the court in which the lienholder has brought the action before an order authorizing sale is issued under this chapter Except as provided in Section 3080 15, or as ordered by the court upon good cause shown, the defendant shall be served with a copy of all of the following at least 10 days prior to the date set for hearing·

(1) A summons and complaint,

(2) A notice of application and hearing, and

(3) An application and all affidavits filed in support thereof

3080.04. The notice of application and hearing shall inform the defendant of all of the following.

(a) The date, time and place of the hearing on the application;

(b) That the order will issue if the court finds, after hearing, that the lienholder has established the probable validity of the claim and has satisfied the other requirements set forth in this chapter,

(c) The hearing is not held for the purpose of determining the actual validity of the claim which determination will be made in other proceedings in the action and will not be affected by the findings made at the hearing on the application for the order,

(d) If the order authorizing sale is issued, the lienholder may proceed to sell the livestock in the manner set forth in the order, and the sale proceeds will be deposited with the court pending judgment on the lienholder's claim,

(e) If the defendant desires to oppose the issuance of the order, the defendant must file with the court and serve on the lienholder a notice of opposition and supporting affidavit as required by Section 3080 05 no later than three days prior to the date set for hearing,

(f) At the hearing, the court may deny the lienholder's

application if the defendant files an undertaking as set forth in Section 3080.11; and

(g) The notice shall contain the following statement: "You may seek the advice of an attorney as to any matters concerning the lienholder's complaint and application. If an attorney is to assist you, he or she should be consulted promptly. You or your attorney or both of you may be present at the hearing."

3080.05. (a) If a defendant desires to oppose the issuance of an order authorizing sale the defendant shall file and serve upon the lienholder a notice of opposition no later than three days prior to the date set for hearing. The notice shall:

(1) State the grounds upon which the defendant opposes the order;

(2) Be accompanied by an affidavit or affidavits supporting any factual issues raised;

(3) State whether the defendant is prepared to file an undertaking as provided in Section 3080.11; and

(4) If the defendant is prepared to file an undertaking, include an estimate of the amount of such undertaking as set forth in Section 3080.09 and the defendant's basis for the estimate.

(b) Except when the lienholder has made an ex parte application for an order as set forth in Section 3080 15, or for good cause shown, a defendant shall not be permitted to oppose the issuance of an order if it has failed to file a notice of opposition within the time prescribed.

3080.06. (a) At the hearing, the court shall consider the showing made by the parties and shall issue an order authorizing the sale of the livestock if it finds all of the following:

(1) The claim upon which the lienholder's action is based is a claim giving rise to a lien upon which an order authorizing sale may be issued under this chapter;

(2) The lienholder has established the probable validity of the claim upon which the action is based;

(3) The lienholder has established the probable validity of the lien sought to be enforced by sale;

(4) The sale is necessary to prevent a possible decline in the value or condition of the livestock or that the sale should be held in the interest of equity,

(5) The sale is not sought for a purpose other than the recovery on the claim upon which the lien is based, and

(6) The sale, if conducted in the manner set forth in the application, would be conducted in a commercially reasonable manner

(b) The order authorizing sale shall:

(1) Identify the livestock for which sale is authorized,

(2) Specify the manner of sale including the date, time, place, necessary publication or other notice, and

(3) Except as may be ordered pursuant to subdivision (c), direct the lienholder to deposit the proceeds of sale with the clerk of the court pending final judgment in the action

(c) The court may in its discretion do either of the following:

(1) Authorize the lienholder to deduct and retain funds from the sale proceeds in an amount sufficient to compensate the lienholder for services provided to the livestock from the date that the lien arose until the date of sale.

(2) Determine the amount of sale proceeds reasonably necessary to satisfy the indebtedness secured by the livestock service lien and order any portion or all of the remaining sale proceeds distributed and applied as set forth in paragraph (3) of subdivision (c) of Section 3080 16

The balance of sale proceeds, if any, remaining after any deductions authorized in this section shall be deposited with the clerk of the court pursuant to this section

3080 07 (a) After hearing, the court may issue an order denying the lienholder's application if it finds that·

(1) A sale is not necessary prior to judgment; and

(2) The defendant has filed an undertaking pursuant to Section 3080.11.

(b) If the defendant has filed an undertaking pursuant to Section 3080 11, the order shall direct the lienholder to assemble and make the livestock available to defendant, or to defendant's agent, at a specified date, time and place.

3080 08. (a) The court's findings at the hearing shall be made upon the basis of the pleadings and other papers in the record. Upon cause shown, the court may receive and consider additional oral or documentary evidence or points and authorities at the hearing, or it may continue the hearing to allow the production of such additional evidence or points and authorities

(b) The court's findings at the hearing shall have no effect on the determination of any issues in the action other than issues relevant to the proceedings authorized by this chapter, nor shall they affect the rights of the defendant in any other action arising out of the same claim The court's determinations at the hearing shall neither be admissible as evidence nor referred to at the trial of any such action

(c) Neither the failure of the defendant to oppose the issuance of an order authorizing sale, nor the defendant's failure to rebut any evidence produced by the lienholder at the hearing held for the issuance of such order, shall constitute a waiver of any defense to the lienholder's claim in the action or in any other action or have any effect on the right of the defendant to produce or exclude evidence at the trial of such action

3080 09 (a) At any time after the lienholder has filed a complaint and claimed a lien under this chapter, or at any time after the owner of the livestock has commenced an action to recover possession of the livestock, the owner of the livestock may apply to the court in which the action was brought for an order for substitution of an undertaking which meets the requirements of Section 3080 11 for the livestock held by the lienholder

(b) The application for such order shall be executed under oath

and, unless included within a notice of opposition to sale as set forth in Section 3080.05, or except for good cause shown, shall be made upon noticed motion. Unless the parties otherwise agree, a hearing shall be held on the motion not less than five nor more than 10 days after service of notice of motion. The application shall contain all of the following:

(1) A description of the livestock to be recovered;

(2) An estimate and the basis for the estimate of the fair market value of the livestock;

(3) A statement identifying and describing the sureties for the undertaking.

3080.10. After hearing, the court may enter an order directing the lienholder to release all or a portion of the livestock to the owner, or to the owner's agent. The order shall be conditioned upon the filing by the owner of an approved undertaking as set forth in Section 3080 11, and shall include all of the following:

(1) The amount of the undertaking required;

(2) The basis for the court's finding as to the fair market value of the livestock;

(3) An approval of the sureties proposed,

(4) A statement that the lienholder has the right to object to the undertaking pursuant to Section 3080.12;

(5) A description of the livestock to be substituted; and

(6) A statement of the date, time, place and manner in which the lienholder is to turn over the livestock to the owner.

3080.11 The undertaking to be substituted for livestock shall:

(a) Be an undertaking by the owner to pay to the lienholder an amount equal to the sum of (1) the fair market value of the livestock sought to be recovered, and (2) the costs to be incurred by the lienholder in order to assemble and turn over the livestock;

(b) Be presented to the court for approval and upon approval shall be filed with the clerk of the court in which the action is pending; and

(c) Be executed by two or more sureties. Where a surety on the undertaking is a corporate surety possessing a certificate of authority from the Insurance Commissioner, as provided by Section 1056 of the Code of Civil Procedure, and the undertaking conforms in all other respects to the court's order issued under Section 3080.10 and the requirements of this section, the undertaking is not required to be approved by the court before filing.

3080 12 (a) The lienholder may object to the undertaking on either or both of the following grounds:

(1) The sureties are insufficient, or

(2) The amount of the undertaking is insufficient

Where an objection is made on the ground that the amount of the undertaking is insufficient, the notice of motion shall state why the amount is insufficient and offer an estimate for a sufficient amount.

(b) Unless made at a hearing held pursuant to Section 3080 03 or Section 3080 09, or for good cause shown, the objection shall be made

by noticed motion which specifies the ground for objection. If an objection is raised after the issuance of an order authorizing undertaking, unless the parties otherwise agree, a hearing on the objection shall be held not less than five nor more than 10 days after service of notice of motion.

3080.13. (a) If a separate hearing is held on an objection to undertaking, the hearing shall be conducted in such manner as the court deems proper. At any hearing at which an objection is heard, the court may permit witnesses to attend and evidence to be procured and introduced in the same manner as in the trial of a civil case. The court may appoint one or more disinterested persons to appraise the livestock for the purpose of ascertaining its value.

(b) If the court determines that an undertaking is insufficient, it shall specify in what respect it is insufficient and shall order that an undertaking with sufficient sureties and in a sufficient amount be filed within five days. If the order is not complied with, all rights obtained by filing the original undertaking immediately cease. If an order authorizing sale has issued, the lienholder may proceed to sell the livestock in accordance with the terms of such order.

(c) Where the court determines an undertaking is insufficient, the undertaking shall remain in effect until either an undertaking with sufficient sureties and in a sufficient amount has been filed, or the time in which to file such undertaking has expired, whichever shall first occur.

(d) Where the court has heard an objection and has determined that an undertaking is sufficient, no future objection to the undertaking may be made except upon a showing of changed circumstances.

3080.14. (a) Notwithstanding Section 2845, a judgment of liability on any undertaking shall be in favor of the beneficiary and against the sureties and may be enforced directly against the sureties. The liability of a surety is limited to the amount of the undertaking, and nothing in this section shall affect any right of subrogation of a surety against his principal.

(b) A motion to enforce liability on an undertaking shall not be filed or notice served prior to entry of final judgment in the action in which the undertaking is given and the time for appeal from such judgment has expired or, if an appeal is filed, until such appeal is finally determined.

3080.15. (a) Except as otherwise provided by statute, or upon noticed hearing as provided in this chapter, no order authorizing sale or order for substitution of undertaking for livestock may issue unless it appears from facts shown by affidavit that great or irreparable injury would result to the party seeking the order if the issuance of the order were delayed until the matter could be heard upon noticed hearing.

(b) In addition to a specific statement of the facts showing great or irreparable injury, any application made under this section for either an order authorizing sale or an order substituting undertaking

for livestock shall include the substantive requirements of an application made under Section 3080.03 or Section 3080.09, respectively

(c) The court shall examine the ex parte application, supporting affidavits and other papers on record and may issue the order sought if it finds all of the following.

(1) The party seeking the order is entitled to the order under the substantive provisions of this chapter,

(2) The party seeking the order will suffer great and irreparable injury if the order is not issued; and

(3) If the ex parte application is made for an order authorizing sale, the court determines that the condition of the livestock will greatly deteriorate or the value of the livestock will greatly depreciate before an order authorizing sale could be obtained pursuant to noticed hearing.

(d) An order issued under this section shall contain such provisions as the court determines to be in the interests of justice and equity to the parties, taking into account the effects on all parties under the circumstances of the particular case. If an order authorizing sale issues under this section, the court may authorize the lienholder to take any action necessary to preserve the value of the livestock so long as the court has determined that such action would be commercially reasonable under the circumstances

(e) Upon ex parte application of any party affected by an order issued under this section or, if the court so orders, after a noticed hearing, the court may modify or vacate the order if it determines that such action would be proper under the circumstances.

3080 16. (a) Except as otherwise specified by the order authorizing sale or as agreed to by the parties after the lien has arisen, a sale of livestock under this chapter may be held in bulk or in parcels, at wholesale or retail, and at any time and place and on any terms, provided the lienholder acts in good faith and in a commercially reasonable manner The livestock may be sold in its existing condition or following any commercially reasonable preparation or processing. The fact that a better price could have been obtained by a sale at a different time or in a different manner from that selected by the lienholder is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner If the lienholder either sells the livestock in the usual manner in any recognized market therefor or sells at the price current in such market at the time of the sale or, if it has otherwise sold in conformity with reasonable commercial sales practices for the type of livestock sold, it has sold in a commercially reasonable manner

(b) Except as otherwise specified by order of the court, or as agreed to by all interested parties after the lien has arisen, the proceeds of sale shall be deposited with the clerk of the court in an interest-bearing account to abide the judgment in the action

(c) Except as otherwise specified in the judgment in the action,

the proceeds of sale shall be applied in the following order:

(1) For reasonable expenses incurred by the lienholder in enforcing the lien, including, but not limited to, the charges for livestock services from the date the lien arose to the date of sale; the costs of transporting and preparing the livestock for sale and of conducting the sale; and, the reasonable attorneys' fees and legal costs and expenses incurred by the lienholder,

(2) For satisfaction of the contractual indebtedness secured by the lien; and

(3) For satisfaction of indebtedness secured by any subordinate lien or security interest in the livestock if written notification or demand therefor is received by the court or the lienholder before the proceeds have been distributed If requested by the lienholder, the holder of a subordinate lien or security interest must seasonably furnish reasonable proof to the court of its subordinate interest before the lienholder need comply with the demand.

(d) The lienholder must account to the owner of the livestock for any surplus and, unless otherwise provided in the judgment in the action, the owner shall be liable for any deficiency

3080.17 Except as otherwise agreed or specified by order of court, notice of sale shall be given as follows

(a) A notice in writing of the date, time and place of sale shall be delivered personally or be deposited in the United States mail, postage prepaid, addressed to the owner of the livestock, at his last known address, and to any other person claiming a lien upon or security interest in the livestock, who had on file with the California Secretary of State on the date the lien arose a financing statement covering the livestock for which livestock services secured by the lien were provided at least five days before the date fixed for any public sale or before the day on or after which any private sale or other disposition is to be made

(b) Notice of the time and place of a public sale shall also be given at least five days before the date of sale by publication once in a newspaper of general circulation published in the county in which the sale is to be held. If there is no such newspaper, notice shall be given by posting, for five days prior to sale, a notice of sale where the sale is to be conducted

3080.18. (a) Any sale of which notice is delivered or mailed and published as provided in this chapter and which is held as provided in this chapter is a public sale

(b) Any public sale may be postponed from time to time by public announcement at the time and place last scheduled for sale.

(c) The lienholder may purchase the livestock at a public sale

3080 19 (a) A sale of livestock held pursuant to this chapter shall.

(1) Transfer to a purchaser for value all of the owner's rights in the livestock, and

(2) Discharge the lien under which the sale is made and any lien or security interest subordinate thereto

(b) The purchaser shall take free of all such subordinate rights and

interests even though the lienholder fails to comply with the requirements of this chapter or of any judicial proceeding if:

(1) In the case of a public sale, the purchaser has no knowledge of any defects in the sale and does not buy in collusion with the lienholder, other bidders or the person conducting the sale, or

(2) In any other case, the purchaser acts in good faith.

3080 20. (a) The owner of livestock or any other person claiming an interest in livestock may release its interest in the livestock at any time after the lien has arisen. The release shall be in writing and dated when signed. A copy of the release shall be given to the person releasing the interest at the time the release is signed.

(b) The release shall contain all of the following information in simple, nontechnical language·

(1) A description of the livestock covered by the release and the releasing party's interest in the livestock;

(2) A statement of the amount of the lien to which the livestock is subject,

(3) A statement that the releasing party has a legal right to a hearing in court prior to any sale of the livestock to satisfy the lien;

(4) A statement by the releasing party that it is giving the lienholder permission to sell the livestock,

(5) A statement of the extent to which the releasing party gives up any interest it may have in the livestock or in the sale proceeds of the livestock; and,

(6) To the extent that the release is not given in full satisfaction of the lienholder's claim or claims against the releasing party, a statement by the releasing party that it is aware that the lienholder may still have a claim against it after the release has been executed.

3080 21 At any time after a lien has arisen, the lienholder may propose to retain any portion or all of the livestock in satisfaction of any portion or all of the claim against the owner or other person indebted to the lienholder for livestock services The proposal shall be made in writing to the owner and written notice thereof shall be given to any person entitled to receive notice under subdivision (a) of Section 3080 17. If, within 21 days after the notice was sent, the lienholder receives objection in writing from a person entitled to receive notification, the lienholder must proceed to sell the livestock and account for the proceeds pursuant to this chapter In the absence of such written objection, the lienholder may retain the livestock, or so much thereof as proposed, in satisfaction of all or a portion of the claim against the owner and other person indebted to the lienholder for livestock services, upon the owner's and such other person's execution of a release conforming to Section 3080 20.

3080 22 Any lien provided for in this chapter may be assigned by written instrument accompanied by delivery of possession of the livestock, subject to the lien, and the assignee may exercise the rights of a lienholder as provided in this chapter Any lienholder assigning a lien as authorized herein shall at the time of assigning the lien give written notice of the assignment either by personal delivery or by

registered or certified mail, to the legal owner and any other person entitled to receive notice under subdivision (a) of Section 3080.17, including the name and address of the person to whom the lien has been assigned

---

CHAPTER 601

An act to add Section 1798 68 to the Civil Code, and to add Sections 6262, 6263, 6264, and 6265 to the Government Code, relating to district attorneys

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 1798 68 is added to the Civil Code, to read

1798 68 (a) Information which is permitted to be disclosed under the provisions of subdivision (e), (f), or (o), of Section 1798 24 shall be provided when requested by a district attorney

A district attorney may petition a court of competent jurisdiction to require disclosure of information when an agency fails or refuses to provide the requested information within 10 working days of a request The court may require the agency to permit inspection unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure

(b) Disclosure of information to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law

SEC 2 Section 6262 is added to the Government Code, to read

6262. The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not apply when a request for inspection of such records is made by a district attorney

SEC. 3 Section 6263 is added to the Government Code, to read

6263. A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this chapter when requested by a district attorney

SEC. 4 Section 6264 is added to the Government Code, to read

6264 The district attorney may petition a court of competent jurisdiction to require a state or local agency to allow him to inspect or receive a copy of any public record or class of public records not exempted by this chapter when the agency fails or refuses to allow inspection or copying within 10 working days of a request The court may require a public agency to permit inspection or copying by the district attorney unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure

SEC. 5. Section 6265 is added to the Government Code, to read:

6265 Disclosure of records to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 602

An act to amend Section 805 of, and to add Section 805.5 to, the Business and Professions Code, relating to health, and making an appropriation therefor

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1 Section 805 of the Business and Professions Code is amended to read

805 The chief executive officer and the chief of the medical staff, where one exists, of any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, or any health care service plan or medical care foundation shall report to the agency which issued the license, certificate or similar authority when any licensed physician and surgeon, clinical psychologist, podiatrist, or dentist is denied staff privileges, removed from the medical staff of such institution or if his staff privileges are restricted for a cumulative total of 45 days in any calendar year for any medical disciplinary cause or reason Such reports shall be made within 20 working days following such removal or restriction, shall be certified as true and correct by the chief executive officer and the chief of the medical staff, where one exists, and shall contain a statement detailing the nature of the action, its date and all of the reasons for, and circumstances surrounding, such action If the removal or restriction is by resignation or other voluntary action that was requested or bargained for in lieu of medical disciplinary action, the report shall so state

The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800, provided that a copy

of the report containing the information required by this section may be disclosed as required by Section 805 5 with respect to reports received on or after January 1, 1976. The Board of Medical Quality Assurance, the Board of Osteopathic Examiners, and the Board of Dental Examiners shall disclose such reports as required by Section 805 5 A file containing reports received pursuant to this section shall be maintained by the agency receiving the reports for a minimum of five years after receipt

Failure to make a report pursuant to this section shall be a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600)

SEC 2. Section 805 5 is added to the Business and Professions Code, to read

805 5. (a) Prior to granting or renewing staff privileges for any physician and surgeon, clinical psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, or any health care service plan or medical care foundation, or the medical staff of any such institution, shall request a report from the Board of Medical Quality Assurance, the Board of Osteopathic Examiners, or the Board of Dental Examiners to determine if any report has been made pursuant to Section 805 indicating that the applying physician and surgeon, clinical psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his staff privileges restricted as provided in Section 805 The request shall include the name and California license number of the physician and surgeon, clinical psychologist, podiatrist, or dentist Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record

(b) Upon a request made by an institution described in subdivision (a) or its medical staff, which is received on or after January 1, 1980, the board shall furnish a copy of any report made pursuant to Section 805 However, the board shall not send a copy of a report where the denial, removal, or restriction was imposed solely because of the failure to complete medical records

In the event that the board fails to advise such institution within 30 working days following its request for a report required by this section, the institution may grant or renew staff privileges for the physician and surgeon, clinical psychologist, podiatrist, or dentist

(c) Any institution described in subdivision (a) or its medical staff which violates the provisions of subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600)

SEC 3 The Board of Medical Quality Assurance shall submit a report to the Legislature and the Governor on or before March 1, 1981, regarding the effectiveness of institutional communications regarding physician conduct as required by this act

SEC 4 The sum of thirteen thousand dollars ($13,000) is hereby appropriated from the Contingency Fund of the Board of Medical

Quality Assurance to the board for the purpose of carrying out the provisions of this act for the period from January 1, 1980, to, and including, June 30, 1980.

SEC 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because of the following reasons:

(a) 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.

(b) 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.

It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 603

An act to amend Section 5710 of the Labor Code, relating to workers' compensation

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1. Section 5710 of the Labor Code is amended to read.

5710. (a) The appeals board, a referee, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state To that end the attendance of witnesses and the production of records may be required Depositions may be taken outside the state before any officer authorized to administer oaths The appeals board or a referee in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear workers' compensation matters in such other jurisdictions

(b) Where the employer or insurance carrier requests a deposition to be taken of an injured employee, or any person claiming benefits as a dependent of an injured employee, the deponent is entitled to receive in addition to all other benefits·

(1) All reasonable expenses of transportation, meals and lodging incident to such deposition

(2) Reimbursement for any loss of wages incurred during attendance at such deposition

(3) A copy of the transcript of the deposition, without cost.

(4) A reasonable allowance for attorney's fees for the deponent, if represented by an attorney. Such fee shall be discretionary with, and, if allowed, shall be set by, the appeals board, but shall be paid by the employer or his insurer.

SEC 2. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code

---

CHAPTER 604

An act to amend Sections 3053 and 3109 of the Welfare and Institutions Code, relating to narcotic addicts.

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1 Section 3053 of the Welfare and Institutions Code is amended to read.

3053 (a) If at any time following receipt at the facility of a person committed pursuant to this article, the Director of Corrections concludes that the person, because of excessive criminality or for other relevant reason, is not a fit subject for confinement or treatment in such narcotic detention, treatment and rehabilitation facility, he shall return the person to the court in which the case originated for such further proceedings on the criminal charges as that court may deem warranted.

(b) A person committed pursuant to this article who is subsequently committed to the Director of Corrections pursuant to Section 1168 or 1170 of the Penal Code shall not be a fit subject for treatment pursuant to this article. The court committing the person to the Director of Corrections pursuant to Section 1168 or 1170 of the Penal Code shall immediately notify the court which originally committed the person pursuant to this article Upon receipt of such person committed pursuant to Section 1168 or 1170 of the Penal Code or upon notification of such commitment, whichever is sooner, the Director of Corrections shall notify the court which committed the person pursuant to this article of such subsequent commitment Upon receipt of notification of such subsequent commitment the court which had committed the person pursuant to this article shall automatically terminate the commitment and shall promptly set for hearing the matter of further proceedings on the criminal charges

(c) If the defendant was originally committed pursuant to Section 3050 or 3051, the committing court, if the criminal proceedings were

conducted in another court, shall notify that court which adjourned its criminal proceedings or suspended sentence in such case pending the civil commitment. In such event, that criminal court shall then promptly set for hearing the matter of the sentencing of the defendant upon the conviction which subsequently resulted in the original civil commitment

SEC 1 5 Section 3053 of the Welfare and Institutions Code is amended to read·

3053. (a) If at any time following receipt at the facility of a person committed pursuant to this article, the Director of Corrections concludes that the person, because of excessive criminality or for other relevant reason, is not a fit subject for confinement or treatment in such narcotic detention, treatment and rehabilitation facility, he shall return the person to the court in which the case originated for such further proceedings on the criminal charges as that court may deem warranted.

(b) A person committed pursuant to this article who is subsequently committed to the Director of Corrections pursuant to Section 1168 or 1170 of the Penal Code shall not be a fit subject for treatment pursuant to this article The court committing the person to the Director of Corrections pursuant to Section 1168 or 1170 of the Penal Code shall immediately notify the court which originally committed the person pursuant to this article. Upon receipt of such person committed pursuant to Section 1168 or 1170 of the Penal Code or upon notification of such commitment, whichever is sooner, the Director of Corrections shall notify the court which committed the person pursuant to this article of such subsequent commitment. Upon receipt of notification of such subsequent commitment the court which had committed the person pursuant to this article shall automatically terminate the commitment and shall promptly set for hearing the matter of further proceedings on the criminal charges

(c) If the defendant was originally committed pursuant to Section 3050 or 3051, the committing court, if the criminal proceedings were conducted in another court, shall notify that court which adjourned its criminal proceedings or suspended sentence in such case pending the civil commitment In such event, that criminal court shall then promptly set for hearing the matter of the sentencing of the defendant upon the conviction which subsequently resulted in the original civil commitment

(d) The director shall notify the court of the total number of days the person has been in actual custody, the total number of days on outpatient status, and the date or dates of any admission to and release from actual custody

SEC 2 Section 3109 of the Welfare and Institutions Code is amended to read

3109 (a) If at any time following receipt at the facility of a person committed pursuant to this article, the Director of Corrections concludes that such person is not, because of excessive criminality or for other relevant reason, a fit subject for confinement

or treatment in a facility of the Department of Corrections, he may order such person discharged.

(b) A person committed pursuant to this article who is subsequently committed to the Director of Corrections pursuant to Section 1168 or 1170 of the Penal Code shall not be a fit subject for treatment pursuant to this article and shall be ordered discharged

SEC 3. It is the intent of the Legislature, if this bill and Senate Bill No 749 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 3053 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 749, that Section 3053 of the Welfare and Institutions Code, as amended by Section 5 of Senate Bill No. 749 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 3053 proposed by this bill. Therefore, Section 1 5 of this act shall become operative only if this bill and Senate Bill No. 749 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 3053, and this bill is chaptered after Senate Bill No 749, 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.

CHAPTER 605

An act to amend Section 2750.5 of the Labor Code, relating to employment

[Approved by Governor September 12, 1979 Filed with Secretary of State September 12, 1979]

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

SECTION 1 Section 2750.5 of the Labor Code is amended to read.

2750.5 There is a rebuttable presumption affecting the burden of proof that a worker performing services for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, or who is performing such services for a person who is required to obtain such a license is an employee rather than an independent contractor Proof of independent contractor status includes satisfactory proof of these factors

(a) That the individual has the right to control and discretion as to the manner of performance of the contract for services in that the result of the work and not the means by which it is accomplished is the primary factor bargained for

(b) That the individual is customarily engaged in an independently established business

(c) That the individual's independent contractor status is bona

fide and not a subterfuge to avoid employee status. A bona fide independent contractor status is further evidenced by the presence of cumulative factors such as substantial investment other than personal services in the business, holding out to be in business for oneself, bargaining for a contract to complete a specific project for compensation by project rather than by time, control over the time and place the work is performed, supplying the tools or instrumentalities used in the work other than tools and instrumentalities normally and customarily provided by employees, hiring employees, performing work that is not ordinarily in the course of the principal's work, performing work that requires a particular skill, holding a license pursuant to the Business and Professions Code, the intent by the parties that the work relationship is of an independent contractor status, or that the relationship is not severable or terminable at will by the principal but gives rise to an action for breach of contract

In addition to the factors contained in subdivisions (a), (b), and (c), any person performing any function or activity for which a license is required pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code shall hold a valid contractors' license as a condition of having independent contractor status

For purposes of workers' compensation law, this presumption is a supplement to the existing statutory definitions of employee and independent contractor, and is not intended to lessen the coverage of employees under Division 4 and Division 5

CHAPTER 606

An act to amend Sections 72602.15, 72640, 72645, 72646, 72702, 72702.5, 72703, 72704, 72704.5, 72717, 72717.5, 72750.5, 72751, 72751.1, 72751.5, 72752, 72753, and 72754 of the Government Code, relating to courts

[Became law without Governor's signature September 13, 1979. Filed with Secretary of State September 13, 1979.]

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

SECTION 1. Section 72602.15 of the Government Code is amended to read:

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

The officers and attachés of the San Antonio Municipal Court District and the South Gate Municipal Court District employed by such districts on the operative date of this section shall be the officers

and attachés of the Southeast Municipal Court District with all of the rights and benefits to which they were entitled as employees of such districts.

(b) Notwithstanding any other provision of this code, there shall be, in lieu of one deputy clerk IV, one supervising deputy clerk who shall be entitled to the same rights and benefits as a deputy clerk IV of such court and who shall receive a monthly salary four schedules higher than the schedule specified for the class of deputy clerk IV of such court

SEC 1.5. Section 72640 of the Government Code is amended to read

72640 There shall be one marshal for all municipal courts established in judicial districts in Los Angeles County, who shall be appointed pursuant to this article, and who shall receive the monthly compensation specified in Schedule 80H

SEC. 2 Section 72645 of the Government Code is amended to read

72645 The marshal shall appoint

(a) One assistant marshal who shall receive the monthly compensation specified in Schedule 76H The marshal shall make such appointment from the peace officer members of his office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal The provisions of Section 72649 shall not be applicable to the appointment to nor removal of a person from this position, but all other provisions of Section 72649 shall be applicable Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by him prior to his appointment to the position of assistant marshal

(b) Three inspectors, each of whom shall receive monthly compensation as provided in Schedule 70H.

(c) Ten captains, each of whom shall receive monthly compensation as provided in Schedule 64H.

(d) Twenty-two lieutenants, each of whom shall receive monthly compensation as provided in Schedule 59C

(e) Thirty-six sergeants, each of whom shall receive monthly compensation as provided in Schedule 52K

(f) Fifty deputy marshals IV, each of whom shall receive monthly compensation as provided in Schedule 46G

(g) One hundred eighteen deputy marshals III, each of whom shall receive monthly compensation as provided in Schedule 44G.

(h) Two hundred seventy-six deputy marshals II, each of whom shall receive monthly compensation as provided in Schedule 42F, and who shall have completed one full year of service and possess a P O S T specialized basic certificate

(i) Forty-five deputy marshals I, each of whom shall receive monthly compensation as provided in Schedule 40F Appointments to such positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding the

provisions of Section 72649, such deputies shall be subject to a 12-month period of probation

(j) Ten deputy marshal-matrons, each of whom shall receive monthly compensation as provided in Schedule 34F, and who shall have completed a course of training which meets the requirements of the P O S T Commission for a specialized law enforcement basic certificate

SEC 3. Section 72646 of the Government Code is amended to read:

72646. The marshal shall appoint

(a) One head, administrative services, marshal, who shall receive compensation as provided in Schedule 55B

(b) One senior staff assistant, marshal, who shall receive compensation as provided in Schedule 48B

(c) One administrative secretary, marshal, who shall receive monthly compensation as provided in Schedule 37D Appointment to said position shall be at step 3 of said schedule

(d) Two staff assistants, marshal, each of whom shall receive compensation as provided in Schedule 38D

(e) One senior stenographic secretary who shall receive monthly compensation as provided in Schedule 36C

(f) Two principal clerks, each of whom shall receive monthly compensation as provided in Schedule 35B

(g) One supply and reproduction supervisor who shall receive monthly compensation as provided in Schedule 34C

(h) Two intermediate stenographic secretaries, each of whom shall receive monthly compensation as provided in Schedule 31C

(i) Ten administrative clerks, each of whom shall receive monthly compensation as provided in Schedule 30J.

(j) Twenty-three deputy clerk-custody officers, each of whom shall receive monthly compensation as provided in Schedule 29J

(k) One senior payroll clerk, marshal, who shall receive monthly compensation as provided in Schedule 29J

(*l*) One supply and reproduction assistant who shall receive monthly compensation as provided in Schedule 28C.

(m) Fifty-two deputy clerks, grade III, each of whom shall receive monthly compensation as provided in Schedule 26K

(n) Three stenographic secretaries, each of whom shall receive monthly compensation as provided in Schedule 25C

(o) Sixty deputy clerks, grade II, each of whom shall receive monthly compensation as provided in Schedule 20L

(p) Fifteen deputy clerks, grade I, each of whom shall receive monthly compensation as provided in Schedule 15H Appointments to such positions shall be at step 4 of such schedule

(q) Such deputies who shall be keepers, as may be reasonably required pursuant to law, at the fee allowed by law for keeping property

SEC 4 Section 72702 of the Government Code is amended to read

72702 There shall be one clerk or clerk-administrative officer who shall be appointed by the judges of the court and who shall receive a monthly salary at a rate specified in Schedule 73B of the salary schedule. Notwithstanding any other provisions of law, whenever any vacancy occurs, the judges shall appoint one clerk who shall hold office at their pleasure and who shall receive the salary hereinabove provided.

SEC 5 Section 72702 5 of the Government Code is amended to read

72702 5 The clerk may appoint one chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary at a rate specified in Schedule 62L of the salary schedule.

SEC 6 Section 72703 of the Government Code is amended to read·

72703 The clerk may appoint

(a) One deputy clerk who shall be chief, traffic division, and who shall receive a monthly salary at a rate specified in Schedule 55L

(b) One deputy clerk who shall be chief, civil division, and who shall receive a monthly salary at a rate specified in Schedule 55L

(c) One deputy clerk who shall be chief, criminal division, and who shall receive a monthly salary at a rate specified in Schedule 55L.

(d) One deputy clerk who shall be chief, data-processing division, and who shall receive a monthly salary at a rate specified in Schedule 55L

(e) One deputy clerk who shall be chief, valley division, and who shall receive a monthly salary at the same rate specified for chief, traffic, civil and criminal division

(f) Seven deputy clerks, deputy chiefs, each of whom shall receive a monthly salary at a rate four schedules more than the rate specified for principal clerk

(g) One deputy clerk who shall be chief, administrative services, and who shall receive a monthly salary at a rate specified in Schedule 55L.

(h) One deputy clerk who shall be special assistant to the executive officer, and who shall receive a monthly salary at the same rate specified in schedule for chief, traffic, civil and criminal division

(i) One deputy clerk, who shall be criminal courts coordinator, and who shall receive a monthly salary at a rate specified in Schedule 42L

(j) Seven deputy clerks, principal clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 47A

(k) One deputy clerk who shall be special assistant to the chief, administrative services division, and who shall receive a monthly salary at a rate specified in Schedule 44G

(*l*) One deputy clerk who shall be personnel officer and who shall receive a monthly salary at a rate specified in Schedule 55B

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the

salary schedule.

SEC. 7. Section 72704 of the Government Code is amended to read.

72704. The clerk may also appoint·

(a) Ninety-five deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 64 and each commissioner or traffic referee in excess of 18 to which the court is or may become entitled by law, each of whom shall receive a monthly salary at a rate specified in Schedule 42L

(b) One deputy clerk, executive secretary, presiding judge, who shall receive a monthly salary at a rate specified in Schedule 41C. Appointments to said position shall be at step 3 of said schedule.

(c) One deputy clerk, administrative secretary, clerk, who shall receive a monthly salary at a rate specified in Schedule 37C Appointments to said position shall be at step 3 of said schedule.

(d) Fifteen deputy clerks, judicial secretary, each of whom shall receive a monthly salary at a rate specified in Schedule 31C. Appointments to said positions shall be at step 3 of said schedule.

(e) Seventy-five deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 26K.

(f) Five deputy clerks, supervising clerk, each of whom shall receive a monthly salary at a rate specified in Schedule 31L

(g) One hundred forty-five deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 20L.

(h) One hundred fifty-five deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 17H Appointments to such positions shall be at step 3 of the schedule.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective schedule number in the salary schedule

SEC. 8. Section 72704.5 of the Government Code is amended to read.

72704.5. The clerk may also appoint the following deputy clerks as needed:

(a) One computer operations supervisor, who shall receive a monthly salary 10 schedules more than the schedule specified for supervising computer operators.

(b) One data conversion supervisor III, who shall receive a monthly salary at a rate specified in Schedule 39C.

(c) Three data conversion supervisors I, each of whom shall receive a monthly salary at a rate specified in Schedule 29H

(d) Twelve senior data conversion equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 26F.

(e) Seventy-five data conversion equipment operators I, each of whom shall receive a monthly salary at a rate specified in Schedule 22F.

(f) One EDP data systems analyst who shall receive a monthly salary at a rate specified in Schedule 46E

(g) One EDP staff aide who shall receive a monthly salary at a rate specified in Schedule 30F.

(h) Six supervising computer operators, each of whom shall receive a monthly salary at a rate specified in Schedule 40E.

(i) Six computer systems operators, each of whom shall receive a monthly salary at a rate specified in Schedule 34D.

(j) Six computer equipment operators, each of whom shall receive a monthly salary at a rate specified in Schedule 28H.

(k) One senior data control clerk, who shall receive a monthly salary at the rate specified in Schedule 25F

(*l*) Two data control clerks, each of whom shall receive a monthly salary at the rate specified in Schedule 21F.

On the effective date of any amendment to the salary ordinance of Los Angeles County adjusting the salary of any position having the same classification as a court position listed in this section, the salary of such listed court position shall be adjusted an equivalent number of schedules in the salary schedule to which it is attached. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number. Such salary adjustments shall be on an interim basis and shall expire January 1 of the second calendar year following such adjustments, unless ratified by the Legislature.

Persons occupying positions listed in this section shall be entitled to all employee benefits that are provided for or made applicable to a Los Angeles County employee having an equal period of service.

SEC. 9. Section 72717 of the Government Code is amended to read·

72717 The Judges of the Municipal Courts of Los Angeles County may appoint one chief program analyst, municipal courts, who shall receive a monthly salary at the same rate specified for the county's class of deputy county counsel III.

SEC. 10 Section 72717.5 of the Government Code is amended to read·

72717.5 The chief program analyst, municipal courts, may appoint:

(a) Five program analysts I, municipal courts, each of whom shall receive a monthly salary at the same rate specified for the county's class of deputy county counsel II.

(b) The chief program analyst, municipal courts, may also appoint.

(1) One stenographic secretary, municipal courts, who shall receive a monthly salary of one thousand four hundred forty-six dollars and eighty-one cents ($1,446 81) Notwithstanding the above, appointments to such position subsequent to January 1, 1977, shall be at a rate specified in Schedule 31C.

(2) One senior stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 31C.

(3) One stenographer, municipal courts, who shall receive a monthly salary at a rate specified in Schedule 27C, but in no event less than step 3

(4) Fifteen legal research assistants, each of whom shall receive compensation at the rate of five dollars and nineteen cents ($5 19) per hour

SEC 11 Section 72750.5 of the Government Code is amended to read

72750.5 In each municipal court district having seven judges authorized by law the officers and attachés shall be appointed and compensated as follows.

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 60L.

The clerk may appoint

(a) Eleven deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 17H Appointment to said positions shall be at step 3 of said schedule

(b) Thirteen deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 20L.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 26K

(d) Nine deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 42L

(e) One deputy clerk, judicial secretary, who shall receive a monthly salary at a rate specified in Schedule 31C Appointment to such position shall be at step 3 of such schedule

(f) One chief clerk—administrative services, who shall receive a monthly salary at a rate specified in Schedule 47L

(g) One jury secretary who shall receive a monthly salary at a rate specified in Schedule 47L

(h) One chief clerk—civil, who shall receive a monthly salary at a rate specified in Schedule 47L

(i) One chief clerk—criminal, who shall receive a monthly salary at a rate specified in Schedule 47L

(j) One chief clerk—traffic, who shall receive a monthly salary at a rate specified in Schedule 47L

(k) One occupant of chief clerk position as set forth in this section shall be designated by the clerk-administrative officer as assistant clerk-administrative officer and shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court

SEC 12 Section 72751 of the Government Code is amended to read

72751 In each municipal court district having six judges authorized by law the officers and attachés shall be appointed and compensated as follows

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 58L

The clerk may appoint

(a) Ten deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 17H. Appointment to said positions shall be at step 3 of said schedule.

(b) Twelve deputy clerks grade II each of whom shall receive a monthly salary at a rate specified in Schedule 20L.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 26K

(d) Eight deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 42L.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court

SEC. 13 Section 72751 1 of the Government Code is amended to read·

72751 1 In each municipal court district having five judges authorized by law the officers and attachés shall be appointed and compensated as follows·

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 57L

The clerk may appoint

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 17H. Appointments to said positions shall be at step 3 of said schedule

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 20L

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 26K

(d) Seven deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 42L

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court

SEC 14 Section 72751 5 of the Government Code is amended to read

72751 5. In each municipal court district having four judges authorized by law the officers and attachés shall be appointed and compensated as follows

There shall be one clerk-administrative officer appointed by the

judges of the court, who shall receive a monthly salary at a rate specified in Schedule 57L

The clerk may appoint.

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 17H. Appointments to said positions shall be at step 3 of said schedule

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 20L.

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 26K

(d) Six deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 42L.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC 15 Section 72752 of the Government Code is amended to read

72752 In each municipal court district having three judges authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate specified in Schedule 56L.

The clerk may appoint.

(a) Nine deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 17H Appointments to said positions shall be at step 3 of said schedule.

(b) Eleven deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 20L

(c) Nine deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 26K

(d) Five deputy clerks grade IV, plus one additional such deputy clerk for each commissioner or traffic referee appointed pursuant to Section 72400 or 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 42L

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court

SEC 16. Section 72753 of the Government Code is amended to read

72753 In each municipal court district having two judges authorized by law the officers and attachés shall be appointed and compensated as follows

There shall be one clerk-administrative officer appointed by the judges of the court, who shall receive a monthly salary at a rate

specified in Schedule 56L.

The clerk may appoint.

(a) Six deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 17H. Appointments to said positions shall be at step 3 of said schedule.

(b) Eight deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 20L

(c) Six deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 26K.

(d) Three deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 42L.

(e) One chief deputy clerk who shall be assistant clerk-administrative officer and who shall receive a monthly salary eight schedules less than the schedule specified for the clerk-administrative officer of said court.

SEC 17. Section 72754 of the Government Code is amended to read:

72754 In each municipal court district having one judge authorized by law the officers and attachés shall be appointed and compensated as follows:

There shall be one clerk-administrative officer appointed by the judge of the court, who shall receive a monthly salary at a rate specified in Schedule 54L.

The clerk may appoint:

(a) Two deputy clerks grade I, each of whom shall receive a monthly salary at a rate specified in Schedule 17H Appointments to said positions shall be at step 3 of said schedule.

(b) Three deputy clerks grade II, each of whom shall receive a monthly salary at a rate specified in Schedule 20L.

(c) Two deputy clerks grade III, each of whom shall receive a monthly salary at a rate specified in Schedule 26K.

(d) Two deputy clerks grade IV, plus one additional such deputy clerk for each commissioner appointed pursuant to Section 72757, each of whom shall receive a monthly salary at a rate specified in Schedule 42L, provided, however, that one of such deputy clerks grade IV whose regular duties shall include the supervision of clerical personnel shall, for the duration of such assignment, receive compensation at the rate of the next higher numbered salary schedule which will increase his basic compensation by one step.

SEC. 18. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to carry out the program specified in this act It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1

of that code

CHAPTER 607

An act to amend Section 74132 of, to add Sections 74134, 74135, 74136, 74137, 74138, 74139, 74141, 74142, 74143, and 74144 to, and to repeal Sections 74134, 74135, 74136, 74137, 74138, 74139, 74141, 74142, 74143, and 74144 of, the Government Code, relating to municipal courts.

[Became law without Governor's signature September 13, 1979. Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 74132 of the Government Code is amended to read·

74132 The provisions of this section shall apply to the clerks, marshals and their respective assistants, deputies and other employees of each clerk and marshal of each judicial district.

(a) Each employee shall receive a salary computed upon a biweekly rate in accordance with the range and step for his position specified in or pursuant to this article, as determined by the salary schedule in the salary ordinance of Riverside County in effect July 1, 1979.

(b) Except as otherwise provided in this article, each new employee shall for the first 13 full biweekly periods of continuous service receive a salary at the rate specified for step 1 of the applicable range, on the first day of the next biweekly period thereafter, his salary shall increase to the rate for step 3; after 26, 52 and 78 additional biweekly periods of continuous service, his salary shall increase to the rates for steps 5, 7 and 9, respectively Each such step increase shall be to the rate of step 1 of the second next higher range

(c) Notwithstanding any other provisions of law, the salary of any employee may, upon approval by the board of supervisors, be increased or decreased within the limits of the applicable range and eight ranges above or below said limits, in order to provide compensation that is comparable to that of county employees of similar qualifications and experience, holding equal or comparable positions in the Riverside County classified service, as the comparability is determined by the board, or the board of supervisors may increase or decrease the salary of any marshal set pursuant to Section 74135 or Section 74137 to an amount equal to 22 percent greater or lesser than the amount stated in such sections The board of supervisors may also allow such additional appointive positions in the classes of positions specified in this article as in said board's judgment are necessary to perform the work of the offices of each

clerk and marshal. Any salary adjustment made or additional appointive position established pursuant to this subdivision shall be effective only until January 1 following the adjournment of the next regular session of the Legislature unless ratified by the Legislature

(d) Such employees shall be entitled to the same vacation, sick leave, leave of absence, and similar benefits, and may be appointed, promoted, demoted, terminated or transferred, or their status otherwise adjusted, in the same manner and with the same effect as is or may be provided by the current salary ordinances of Riverside County for other employees of the county, and they shall be subject to such employment qualifications as may be fixed by or pursuant to said ordinance for their positions, in the same manner as for other positions in the employment of said county

SEC 2 Section 74134 of the Government Code is repealed

SEC 3 Section 74134 is added to the Government Code, to read.

74134 In the Riverside Judicial District, the salary of the clerk shall be on range 641 and the clerk may appoint

(a) One assistant clerk on range 333
(b) One release investigator on range 431
(c) Three assistant release clerks on range 428
(d) Three municipal court clerks III on range 328
(e) One accounting techician on range 424
(f) Six municipal court clerks II on range 423.
(g) Two supervising clerks on range 322
(h) One senior stenographer-clerk on range 419.
(i) One senior accounting clerk on range 418
(j) Two senior clerks on range 416
(k) Three municipal court clerks I on range 416
(*l*) Three data terminal operators II on range 412
(m) One accounting clerk on range 412.
(n) Eighteen typist-clerks II on range 410

SEC 4 Section 74135 of the Government Code is repealed

SEC 5 Section 74135 is added to the Government Code, to read.

74135 In the Riverside Judicial District, the salary of the marshal shall be twenty-eight thousand dollars ($28,000) per year and the marshal may appoint

(a) One assistant marshal on range 266
(b) One sergeant on range 539
(c) Five deputy marshals II on range 536.
(d) One senior accounting clerk on range 418
(e) Five deputy marshals I on range 531
(f) Three typist-clerks II on range 410
(g) Fifty special deputy marshals who shall be custodians at the fee allowed by law for keeping property taken under legal process and shall be paid out of the funds deposited by the litigants in the action in which such services are rendered Deputies serving under the provisions of this subdivision are not considered employees of the judicial district for purposes of obtaining any benefits of this article

SEC 6 Section 74136 of the Government Code is repealed

SEC. 7. Section 74136 is added to the Government Code, to read:

74136. In the Desert Judicial District, the salary of the clerk shall be on range 641 and the clerk may appoint:

(a) One assistant clerk on range 333.

(b) One assistant clerk, branch court on range 331.

(c) One release investigator on range 431.

(d) One municipal court clerk III on range 328.

(e) One accounting technician on range 424.

(f) Eight municipal court clerks II on range 423.

(g) One senior accounting clerk on range 418.

(h) Four senior clerks on range 416.

(i) One acounting clerk on range 412.

(j) Five data terminal operators II on range 412.

(k) Twelve typist-clerks II on range 410.

SEC. 8. Section 74137 of the Government Code is repealed.

SEC. 9. Section 74137 is added to the Government Code, to read:

74137. In the Desert Judicial District, the salary of the marshal shall be twenty-eight thousand dollars ($28,000) per year and the marshal may appoint:

(a) One assistant marshal on range 266.

(b) One lieutenant on range 262.

(c) One sergeant on range 539

(d) Eight deputy marshals II on range 536.

(e) Five deputy marshals I on range 531.

(f) One senior accounting clerk on range 418.

(g) Six typist-clerks II on range 410.

(h) Thirty special deputy marshals who shall be custodians at the fee allowed by law for keeping property taken under legal process and shall be paid out of the funds deposited by the litigants in the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not considered employees of the judicial district for purposes of obtaining any benefits of this article.

SEC. 10. Section 74138 of the Government Code is repealed.

SEC. 11. Section 74138 is added to the Government Code, to read:

74138. In the Corona Judicial District, the salary of the clerk shall be on range 635 and the clerk may appoint:

(a) One municipal court clerk III on range 328.

(b) Two municipal court clerks II on range 423.

(c) One senior accounting clerk on range 418.

(d) Two senior clerks on range 416.

(e) Four typist-clerks II on range 410.

SEC. 12. Section 74139 of the Government Code is repealed.

SEC. 13. Section 74139 is added to the Government Code, to read:

74139 In the Corona Judicial District the marshal may appoint:

(a) One lieutenant on range 262.

(b) Two deputy marshals II on range 536.

(c) Two deputy marshals I on range 531

(d) One accounting clerk on range 412

(e) One typist-clerk II on range 410

SEC 14. Section 74141 of the Government Code is repealed.

SEC. 15. Section 74141 is added to the Government Code, to read:

74141. In the Mt. San Jacinto Judicial District the salary of the clerk shall be on range 637 and the clerk may appoint:

(a) One traffic referee-assistant clerk on range 163.

(b) One assistant clerk-branch court on range 331.

(c) One municipal court clerk III on range 328.

(d) Three municipal court clerks II on range 423.

(e) One senior accounting clerk on range 418.

(f) Four senior clerks on range 416.

(g) One bail clerk on range 415

(h) One accounting clerk on range 412.

(i) Nine typist-clerks II on range 410.

SEC. 16. Section 74142 of the Government Code is repealed.

SEC. 17. Section 74142 is added to the Government Code, to read:

74142. In the Mt. San Jacinto Judicial District the marshal may appoint:

(a) One lieutenant on range 262.

(b) Three deputy marshals II on range 536.

(c) Three deputy marshals I on range 531.

(d) Two accounting clerks on range 412.

(e) One typist-clerk II on range 410.

SEC. 18. Section 74143 of the Government Code is repealed.

SEC. 19. Section 74143 is added to the Government Code, to read:

74143. In the Three Lakes Judicial District, the salary of the clerk shall be on range 635 and the clerk may appoint:

(a) Two municipal court clerks II on range 423.

(b) One senior accounting clerk on range 418.

(c) Three senior clerks on range 416.

(d) Five typist-clerks II on range 410.

SEC. 20. Section 74144 of the Government Code is repealed.

SEC. 21. Section 74144 is added to the Government Code, to read:

74144. In the Three Lakes Judicial District, the marshal may appoint·

(a) One sergeant on range 539.

(b) One deputy marshal II on range 536

(c) One deputy marshal I on range 531.

(d) One accounting clerk on range 412.

(e) One typist-clerk II on range 410

SEC. 22 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

CHAPTER 608

An act to amend Sections 8007, 8008, and 8015 of, and to repeal Section 8006 of, the Business and Professions Code, relating to certified shorthand reporters.

[Became law without Governor's signature September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 8006 of the Business and Professions Code is repealed

SEC. 2. Section 8007 of the Business and Professions Code is amended to read.

8007 The board shall

(a) Determine the qualifications of persons applying for certificates under this chapter

(b) Make rules for the examination of applicants and the issuing of certificates provided for in this chapter

(c) Grant certificates to such applicants as may, upon examination, be qualified in professional shorthand reporting and in such other subjects as the board may deem advisable.

(d) Adopt, amend, or repeal rules and regulations which are reasonably necessary to carry out the provisions of this chapter

SEC 3 Section 8008 of the Business and Professions Code is amended to read·

8008. The board also has the following powers and duties

(a) To adopt a seal

(b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.

(c) To charge and collect from all applicants for certificates the fees provided for in this chapter

(d) To require the renewal of all such certificates and to collect therefor the renewal fee prescribed by this chapter or such lesser amount as may be fixed by the board

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board

SEC 4 Section 8015 of the Business and Professions Code is amended to read·

8015 This chapter is designed to establish and maintain a standard of competency for those engaged in the practice of shorthand reporting, for the protection of the public, in general, and for the protection of all litigants whose rights to personal freedom and property are affected by the competency of shorthand reporters, in particular

CHAPTER 609

An act to amend Section 25100 of the Corporations Code, and to add Section 14157 to the Financial Code, relating to credit unions.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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, or regulated, under the Credit Union Law.

(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 12807 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 1 5 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, or regulated under the Credit Union Law.

(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.

(r) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise,

(3) The loans are serviced by a financial institution specified in paragraph (1),

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser; and

(5) Such security is offered pursuant to a registration under the Securities Exchange Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act

SEC. 2. Section 14157 is added to the Financial Code, to read·

14157 (a) A credit union organized and duly qualified as a credit union in another state of the United States shall become a credit union organized and operating pursuant to this division if in compliance with each of the following requirements:

(1) Such credit union has filed a statement with the Secretary of State pursuant to Section 2105 of the Corporations Code;

(2) The commissioner has approved an application filed by the credit union which has not been suspended or revoked,

(3) The interest rate of such credit union on loans made to members residing in this state does not exceed the maximum interest rate permitted by the jurisdiction under whose laws it is organized,

(4) Such credit union has obtained surety bond coverage and fidelity bond coverage as prescribed in Section 14409,

(5) Such credit union has obtained insurance for its members' share accounts as prescribed in Section 14858;

(6) Such credit union submits an annual audit report to the commissioner as prescribed in Article 2 (commencing with Section 14250) of Chapter 3 of this division,

(7) Such credit union pays the cost of examination or services performed in accordance with Section 14353; and

(8) Such credit union pays to the commissioner, in accordance with Section 14351, an annual fee fixed by rule of the commissioner in an amount not to exceed two hundred fifty dollars ($250)

(b) For the purpose of implementing the provisions of this section, the commissioner may cooperate with the administrators of the credit union laws of other states and the commissioner may share with them information received in the administation of this division

(c) The commissioner may disapprove an application filed pursuant to this section, or upon reasonable notice and opportunity for hearing suspend or revoke approval of an application, if the commissioner finds that the standards of organization, operation and regulation of the credit union, including but not limited to the laws and regulation of the jurisdiction in which it is organized, do not reasonably conform to the standards of organization, operation and regulation established pursuant to this division, or that 50 percent or more of the members of the credit union are, or are reasonably expected to be, residents of this state

SEC 3 It is the intent of the Legislature, if this bill and Senate Bill 181 are both chaptered and become effective January 1, 1980 both bills amend Section 25100 of the Corporations Code, and this bill

is chaptered after Senate Bill 181, that the amendments to Section 25100 proposed by both bills be given effect and incorporated in Section 25100 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill 181 are both chaptered and become effective January 1, 1980, both amend Section 25100, and this bill is chaptered after Senate Bill 181, in which case Section 1 of this act shall not become operative

---

CHAPTER 610

An act to amend Section 285 of the Welfare and Institutions Code, relating to juvenile court law

[Approved by Governor September 13, 1979. Filed with Secretary of State September 13, 1979.]

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

SECTION 1. Section 285 of the Welfare and Institutions Code is amended to read.

285. All probation officers shall make such periodic reports to the Bureau of Criminal Statistics as the bureau may require and upon forms furnished by the bureau, provided that no names or social security numbers shall be transmitted regarding any proceeding under Section 300 or 601

CHAPTER 611

An act to amend Section 7299.4 of, and to add Section 7295.4 to, the Government Code, relating to use of foreign languages in public service

[Approved by Governor September 13, 1979. Filed with Secretary of State September 13, 1979.]

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

SECTION 1. Section 7295.4 is added to the Government Code, to read

7295.4. Whenever a state agency finds that the factors listed in both subdivisions (a) and (c) or (b) and (c) exist, it shall distribute the applicable written materials in the appropriate non-English language through its local offices or facilities to non-English-speaking persons, or, as an alternative, the state agency may instead elect to furnish translation aids, translation guides, or provide assistance at such local offices in completing English forms or questionnaires and

in understanding English forms, letters or notices

(a) The written materials, whether forms, applications, questionnaires, letters or notices, solicit or require the furnishing of information from an individual or provide that individual with information

(b) The information solicited, required or furnished affects or may affect the individual's rights, duties or privileges with regard to that agency's services or benefits

(c) The local office or facility of the agency with which the individual is dealing, serves a substantial number of non-English-speaking persons

SEC 2 Section 7299 4 of the Government Code is amended to read

7299 4 Each state agency shall conduct a survey of each of its local offices annually to determine

(a) The number of public contact positions in each local office,

(b) The number of bilingual employees in public contact positions, and the languages they speak, other than English,

(c) The number and percentage of non-English-speaking people served by each local office, broken down by native language,

(d) The number of anticipated vacancies in public contact positions; and

(e) Any other relevant information requested by the State Personnel Board

Each agency shall calculate the percentage of non-English-speaking people served by each local office by rounding the percentage arrived at to the nearest whole percentage point

The survey results shall be reported on forms provided by the State Personnel Board, and delivered to the board not later than March 31 of each year

---

CHAPTER 612

An act to amend Section 10783 of the Revenue and Taxation Code and to amend Section 9105 of the Vehicle Code, relating to vehicle fees

[Approved by Governor September 13 1979 Filed with Secretary of State September 13 1979]

The people of the State of California do enact as follows

SECTION 1 Section 10783 of the Revenue and Taxation Code is amended to read

10783 The license fee imposed by this part does not apply to any of the following vehicles, which are not used for transportation for hire, compensation, or profit, when owned by any veteran whose disability has been rated, by the United States Veterans

Administration or the military service from which such veteran was discharged, at 100 percent due to a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device, or who has lost, or has lost the use of, two or more limbs, or one eye and any limb, or who has suffered permanent blindness as defined in Section 19153 of the Welfare and Institutions Code, as a result of injury or disease suffered while on active service with the armed forces of the United States:

(a) Any passenger motor vehicle;

(b) Any motorcycle;

(c) Any commercial motor vehicle of less than 6,001 pounds unladen weight

The exemption granted by this section shall extend to not more than one vehicle owned by any such veteran. The Department of Motor Vehicles may require a certificate substantiating the disability, signed by a physician or surgeon.

SEC. 2. Section 9105 of the Vehicle Code is amended to read.

9105 (a) The fees specified in this code except fees for duplicate plates, certificates, or cards need not be paid for any of the following vehicles, which are of a type subject to registration under this code, and which are not used for transportation for hire, compensation, or profit, when owned by any veteran whose disability has been rated, by the United States Veterans Administration or the military service from which such veteran was discharged, at 100 percent due to a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device, or who has lost, or has lost use of, two or more limbs, or one eye and any limb, or who has suffered permanent blindness as defined in Section 19153 of the Welfare and Institutions Code, as a result of injury or disease suffered while on active service with the armed forces of the United States:

(1) Any passenger motor vehicle

(2) Any motorcycle

(3) Any commercial motor vehicle of less than 6,001 pounds unladen weight

The exemption granted by this subdivision shall not extend to more than one vehicle owned by any such veteran The department may require a certificate, substantiating the disability, signed by a physician or surgeon

(b) Any disabled veteran who qualifies for issuance of, and has been issued, a distinguishing license plate, may apply to the Department of Motor Vehicles for issuance of a distinguishing placard Such placard may be used in lieu of the distinguishing license plate for parking purposes when displayed on the driver's side dashboard of a vehicle The placard shall be at least 6 inches by 12 inches in size, and blue in color

(c) The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to that department for issuance of

placards as provided in subdivision (b). The Department of Motor Vehicles may establish procedures for the issuance of such placard.

SEC. 2.5. Section 9105 of the Vehicle Code is amended to read:

9105. (a) The fees specified in this code except fees for duplicate plates, certificates, or cards need not be paid for any of the following vehicles, which are of a type subject to registration under this code, and which are not used for transportation for hire, compensation, or profit, when owned by any veteran whose disability has been rated, by the United States Veterans Administration or the military service from which such veteran was discharged, at 100 percent due to a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device, or who has lost, or has lost use of, two or more limbs, or one eye and any limb, or who has suffered permanent blindness as defined in Section 19153 of the Welfare and Institutions Code, as a result of injury or disease suffered while on active service with the armed forces of the United States

(1) Any passenger motor vehicle.

(2) Any motorcycle.

(3) Any commercial motor vehicle of less than 6,001 pounds unladen weight.

The exemption granted by this subdivision shall not extend to more than one vehicle owned by any such veteran. The department may require a certificate, substantiating the disability, signed by a physician or surgeon.

(b) Any disabled veteran who qualifies for issuance of, and has been issued, a distinguishing license plate, may apply to the Department of Motor Vehicles for issuance of a distinguishing placard. Such placard may be used in lieu of the distinguishing license plate for parking purposes when displayed on the driver's side dashboard of a vehicle. The placard shall be at least 6 inches by 12 inches in size, and blue in color.

(c) The Department of Motor Vehicles may charge a fee sufficient to pay the actual cost to that department for issuance of placards as provided in subdivision (b). The Department of Motor Vehicles may establish procedures for the issuance of such placard

(d) The registration of the vehicle and the registration card issued therefor shall not be renewed annually but shall remain valid under the conditions of the exemption. If ownership of the vehicle is transferred to any other person, the vehicle shall be registered as a privately owned vehicle and the special plates shall be surrendered to the department.

SEC 3 Notwithstanding Section 2229 and 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act, 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

SEC 4 It is the intent of the Legislature, if this bill and Senate

Bill No. 435 are both chaptered and become effective January 1, 1980, both bills amend Section 9105 of the Vehicle Code, and this bill is chaptered after Senate Bill No. 435, that the amendments to Section 9105 proposed by both bills be given effect and incorporated in Section 9105 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 435 are both chaptered and become effective January 1, 1980, both amend Section 9105, and this bill is chaptered after Senate Bill No 435, in which case Section 2 of this act shall not become operative

---

CHAPTER 613

An act to add Article 5 (commencing with Section 1496) to Chapter 2 5 of Division 2 of the Health and Safety Code, relating to county health facilities.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Article 5 (commencing with Section 1496) is added to Chapter 2 5 of Division 2 of the Health and Safety Code, to read

Article 5 Continuing Education

1496 As used in this article

(a) "Continuing education program" means educational programs designed to increase the knowledge and skills of health workers

(b) "Licensed health worker" means any person who works in a health profession that requires licensure under the laws of California

(c) "Non-county-employed health worker" means any person employed in a health facility, other than a county-operated health facility, in a county in which a continuing education program is offered or is to be offered

(d) "Nonlicensed health worker" means any person who performs duties in a health facility and who is not required to be licensed to perform such duties under the laws of California

1496 5 Any county may conduct continuing education programs for non-county-employed licensed health workers or non-county-employed nonlicensed health workers as prescribed in this article

1497 (a) Any county health facility, including, but not limited to, hospitals, mental health facilities, and other public health facilities, may utilize its county staff personnel to conduct continuing education programs for non-county-employed licensed health

workers or non-county-employed nonlicensed health workers.

(b) A county may contract with a community college, college, university, hospital, or other health facility for purposes of conducting continuing education programs pursuant to this article

1497 5 (a) Any county conducting continuing educational programs pursuant to this article shall charge and collect fees sufficient to defray the cost of such instruction and training Such fees may be reduced to the extent of any federal funds obtained by the county for the purpose of providing such instruction and training

(b) Any fees collected pursuant to this section shall be placed in a continuing education program fund of the county The revenue in such a fund shall be used for the sole purpose of supporting and continually upgrading such continuing educational programs

1498 Any county conducting a continuing education program pursuant to this article shall maintain individual records of attendance and the number of continuing education units earned by participants, if any, in such program Copies of such information shall be made available upon request and at the cost of reproduction to participants in such program

---

CHAPTER 614

An act to amend, repeal, and add Section 38270 of, to add Section 38271 to, and to add and repeal Section 38272 of, the Vehicle Code, relating to vehicles, and making an appropriation therefor

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 38270 of the Vehicle Code is amended to read

38270. Utilizing special fee funds in the Off-Highway Vehicle Fund created by subdivision (b) of Section 38225, revenue transferred from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Fund created by subdivision (b) of Section 38225, and unexpended service fees, the Department of Parks and Recreation shall carry out programs of planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, areas, and other facilities for the use of off-highway motor vehicles Such funds, revenues and fees shall be allocated as follows:

(a) An amount, not to exceed 50 percent of the special fee and Motor Vehicle Fuel Account transfer revenues of the Off-Highway Vehicle Fund, shall be made available for grants to cities, counties, and appropriate special purpose districts for recreation projects for off-highway motor vehicles in accordance with local government

planning and the statewide plans for trails for recreational motor vehicles developed by the Department of Parks and Recreation. Grants may be expended for planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, areas, and other facilities for the use of such vehicles. Except as provided in Section 38272, to be eligible for these funds, a local agency shall provide matching funds, or the value of services, material, or property used, in an amount equal to, but not less than 25 percent of, the total expense of the off-highway motor vehicle project

Portions of this amount not committed to cities, counties, and appropriate special purpose districts shall be available to the Department of Parks and Recreation for cooperative agreements with federal agencies for programs for the recreational use of off-highway vehicles

(b) The remainder of the special fee funds, Motor Vehicle Fuel Account transfer revenues, and all unexpended service fees, and all use fee funds, contained in the Off-Highway Vehicle Fund, shall be expended by the Department of Parks and Recreation for recreational areas, trails, and other facilities for the use of such vehicles

This section shall remain in effect only until June 30, 1983, and as of that date is repealed

SEC 2 Section 38270 is added to the Vehicle Code, to read

38270 Utilizing special fee funds in the Off-Highway Vehicle Fund created by subdivision (b) of Section 38225, revenue transferred from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Fund created by subdivision (b) of Section 38225, and unexpended service fees, the Department of Parks and Recreation shall carry out programs of planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, areas, and other facilities for the use of off-highway motor vehicles Such funds, revenues and fees shall be allocated as follows

(a) An amount, not to exceed 50 percent of the special fee and Motor Vehicle Fuel Account transfer revenues of the Off-Highway Vehicle Fund, shall be made available for grants to cities, counties, and appropriate special purpose districts for recreation projects for off-highway motor vehicles in accordance with local government planning and the statewide plans for trails for recreational motor vehicles developed by the Department of Parks and Recreation Grants may be expended for planning, acquisition, development, construction, maintenance, administration, operation, and conservation of trails, areas, and other facilities for the use of such vehicles Local governments, to be eligible for these funds, shall provide matching funds, or the value of services, material, or property used, in an amount equal to, but not less than 25 percent of, the total expense of the off-highway motor vehicle project

Portions of this amount not committed to cities, counties, and

appropriate special purpose districts shall be available to the Department of Parks and Recreation for cooperative agreements with federal agencies for programs for the recreational use of off-highway vehicles

(b) The remainder of the special fee funds, Motor Vehicle Fuel Account transfer revenues, and all unexpended service fees, and all use fee funds, contained in the Off-Highway Vehicle Fund, shall be expended by the Department of Parks and Recreation for recreational areas, trails, and other facilities for the use of such vehicles

This section shall become operative on July 1, 1983

SEC. 3. Section 38271 is added to the Vehicle Code, to read·

38271 The Department of Parks and Recreation shall adopt criteria for the expenditure of grants made pursuant to subdivision (a) of Section 38270 that include funds for maintenance, administration, and operation costs. The criteria shall take into account, at a minimum, all of the following:

(a) The extent to which the project will serve public needs.

(b) The suitability of the services, material, or property, if any, proposed to be included in the calculation of matching funds

(c) The potential for each project for which a grant is requested to become financially self-sustaining

In addition, any city, county, or district receiving a grant that includes funds for maintenance, administration, and operation costs shall be required to agree that all revenues and other proceeds accruing from the project shall be expended exclusively for the project.

SEC. 4 Section 38272 is added to the Vehicle Code, to read.

38272 Notwithstanding subdivision (a) of Section 38270, there shall be no matching fund requirement imposed with respect to any grant or portion of any grant that consists of funding for the planning, acquisition, development, or construction of a regional off-highway motor vehicle project. The Department of Parks and Recreation shall adopt criteria for the determination of which projects are regional. The criteria shall take into account, at a minimum, all of the following·

(a) That the project for which a grant is requested is or will be primarily for casual usage

(b) The size of each project.

(c) The diversity of vehicle-related recreational activities to be provided by the project.

(d) The size of the population of potential users of the project and the extent of the geographic area to be served by the project

(e) The potential for each project for which a grant is requested to become financially self-sustaining

This section shall remain in effect only until June 30, 1983, and as of that date is repealed

CHAPTER 615

An act to amend Sections 3696, 3704, 3710, and 4675 of, to add Sections 3698 5, 3701, 4112, and 4676 to, and to repeal Sections 3701 and 4112 of, the Revenue and Taxation Code, and to amend Sections 6501 1, 6509, and 6513 of the Streets and Highways Code, relating to forced sales proceeds

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 3696 of the Revenue and Taxation Code is amended to read

3696 Before a sale of tax-deeded property at public auction on application of a prospective purchaser is made, a prospective purchaser shall make a written application to the tax collector asking that the property described in the application be offered for sale. The tax collector shall demand in advance a deposit from the applicant of a sum determined under subdivision (a) of Section 3698.5.

SEC 2 Section 3698 5 is added to the Revenue and Taxation Code, to read

3698.5. (a) The minimum price at which property may be sold pursuant to this chapter shall be an amount equal to not less than 50 percent of the fair market value of such property.

(b) For the purposes of this section, fair market value means the amount as defined in Section 110 as determined pursuant to an appraisal of such property by the county assessor within one year immediately preceding the date of the public auction, inclusive of the costs of appraisal, advertising, and recording The fair market value of property as determined by the assessor pursuant to appraisal shall be conclusively presumed in favor of any purchaser or encumbrancer for value of such property

SEC 2 1 Section 3701 of the Revenue and Taxation Code is repealed

SEC 2 2 Section 3701 is added to the Revenue and Taxation Code, to read

3701 After receiving the written authorization of the Controller, and not less than 21 days nor more than 28 days before the proposed sale, the tax collector shall send notice of the proposed sale by registered mail to the last known mailing address, if available, of parties of interest, as defined in Section 4675 The contents of the notice shall include the date, time, and place of the proposed sale, the amount required to redeem prior to the time of sale, and information regarding the rights of parties of interest to claim excess proceeds, as defined in Section 4674, if the property is sold and excess proceeds result from such sale

The tax collector shall make a reasonable effort to obtain the name

and last known mailing address of parties of interest.

The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

SEC 23. Section 3704 of the Revenue and Taxation Code is amended to read·

3704 The notice of intended sale shall state·

(a) The date, time, and place of the intended sale,

(b) A description of the property to be sold,

(c) The name of the last assessee of the property;

(d) The minimum acceptable bid of the property to be sold,

(e) If the right to redeem the property has not already been terminated, there shall also be a statement that if the property is not redeemed before it is sold, the right of redemption will cease;

(f) If the property is sold, parties of interest, as defined in Section 4675, have the right to file a claim with the county for any proceeds from the sale which are in excess of the liens and costs required to be paid from the proceeds;

(g) If excess proceeds result from the sale, notice will be given to parties of interest, pursuant to law

SEC 25 Section 3710 of the Revenue and Taxation Code is amended to read

3710 In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(a) That the real property was duly sold and conveyed to the state for nonpayment of taxes which had been legally levied and were a lien on the property,

(b) That the state, through the tax collector, has sold the property at public auction;

(c) That no taxing agency objected to the sale (If a taxing agency did object, state· That (name of each objecting taxing agency) objected to the sale);

(d) The name of the purchaser and a statement that the property was sold in accordance with the provisions of subdivision (c) of Section 3698 5;

(e) That the property is therefore conveyed to the purchaser according to law

SEC 26 Section 4112 of the Revenue and Taxation Code is repealed

SEC 27 Section 4112 is added to the Revenue and Taxation Code, to read

4112 (a) When tax-deeded property is redeemed, the tax collector shall collect the following, in addition to the amount required to redeem

(1) A fee of thirty-five dollars ($35) which shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as

defined by Section 4675; and

(2) A fee of six dollars ($6) which shall be distributed to the county recorder for recordation of the release of equity required by subdivision (b).

(b) When tax-deeded property is redeemed, the deed to the state becomes null and any interest acquired by virtue of the sale to the state ceases.

When a certificate of redemption is issued as a result of the redemption of tax-deeded property, the tax collector, for and on behalf of the state, shall execute and record with the county recorder of the county in which such property is located a release of equity or quitclaim of the property redeemed, in the form prescribed by the State Controller. The release shall be acknowledged by the county clerk, without charge.

SEC 3. 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 recordation 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 In addition, any person or entity who in any way acts on behalf of, or in place of, any party of interest in respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to such party of interest and that such party of interest has been advised of his or her right to file a claim for such excess proceeds on his or her own behalf.

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 90 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

SEC 3.5 Section 4676 is added to the Revenue and Taxation Code, to read.

4676 When excess proceeds from the sale by the state of tax-deeded property exceeds one hundred fifty dollars ($150), the county shall provide notice of the right to claim the excess proceeds, as provided herein.

(a) No later than 90 days after the sale of such property, the county shall mail written notice of the right to claim excess proceeds to the last known mailing address of parties of interest, as defined in Section 4675. The county shall make a reasonable effort to obtain the name and last known mailing address or parties of interest.

(b) If the last known address of a party of interest cannot be obtained, the county shall publish notice of the right to claim excess proceeds in a newspaper of general circulation in the county The notice shall be published once a week for three successive weeks and shall commence no later than 90 days after the sale of such property.

The cost of obtaining the name and last known mailing address of parties of interest and of mailing or publishing the notices required herein shall be deducted from the excess proceeds and shall be distributed to the county general fund.

SEC. 4. Section 6501.1 of the Streets and Highways Code is amended to read:

6501 1. (a) If there is surplus money remaining from the sale after payment of the amount due on the bond, plus interest, penalties, and costs of sale, the treasurer shall hold the surplus money in trust during the period of redemption or until the amount due is paid by a redemptioner. In the event of redemption, the treasurer shall pay to the holder of the certificate of sale the amount of principal, interest, and penalties due on the bond, costs paid by the holder, and any surplus money held in trust In the event that there is no redemption of the bond during the redemption period, the treasurer shall pay the surplus money in the following order·

(1) To the lienholders of record prior to the issuance of the treasurer's deed, in the order of their priority,

(2) To the person who was the owner of record prior to the issuance of the treasurer's deed, if he can be found within a three-year period following such sale, or, if such person cannot be found in such period, to each taxing agency in the same proportion that each agency's taxes bear to the total taxes

(b) (1) Written notice of the right to claim surplus money shall be sent to the last known address of any person who had a recorded interest in the property at the time of sale. Such notice shall be sent no later than 90 days after the sale of the property

(2) If the last known address of a person with a recorded interest in the property is not known, notice shall be published once a week for three successive weeks in a newspaper of general circulation in the county. Such notice shall commence no later than 60 days after the sale of such property

SEC 5 Section 6509 of the Streets and Highways Code is amended to read·

6509 (a) If such payment is not made, the sale shall be made as advertised, and the lot or parcel described in the bond shall be sold to the purchaser who will pay the highest price for the entire lot or parcel of land to be sold, but not less than the higher of (1) the amount due on the bond, together with accrued interest, penalties, and all of the sums specified in the notice of sale that are due in the event of sale, or (2) an amount equal to not less than 50 percent of the fair market value of the property.

(b) In the event there are no bidders, the bondholder shall be liable for the minimum sales price Payment to the treasurer at the time of sale need not exceed the amount specified in paragraph (1) of subdivision (a), and the balance, if any, shall be payable at the time the deed is issued

(c) In the event there are no bidders, a certificate of sale for the entire lot or parcel of land described in the bond shall be issued to the bondholder after surrender of the bond, including all unpaid principal and interest coupons, to the treasurer and after payment to the treasurer of the fee of the recorder for recording such certificate, and, if incurred, and if no deposit was made pursuant to Section 6500, the cost of an abstract of title or title search of the real property sold under foreclosure, and also at that time the costs of the sale and other fees previously paid to the treasurer pursuant to Section 6505 1

(d) For the purpose of this section, "fair market value" means the amount, as defined in Section 110 of the Revenue and Taxation Code, as determined pursuant to an appraisal of such property by the county assessor within one year immediately preceding the date of the sale, inclusive of the cost of appraisal, notice, recording, and the cost of an abstract of title or title search of such real property, if any The fair market value as determined by the assessor pursuant to appraisal shall be conclusively presumed in favor of any purchaser or encumbrancer for value of such property

SEC 6 Section 6513 of the Streets and Highways Code is

amended to read

6513 The treasurer shall issue for each sale an original and a duplicate certificate of sale containing·

(a) The date, number and series of the bond under which the sale was made,

(b) A description of the land sold, and

(c) The date of the sale, the purchaser's name, a statement that the property was sold in accordance with the provisions of Section 6509, and the number of the certificate

SEC 7 Sections 1, 2, 2 1, 2.2, and 2.5 of this act shall apply with respect to the sale of tax-deeded property which is approved by resolution of the board of supervisors pursuant to Section 3699 of the Revenue and Taxation Code after the effective date of this act

SEC 8 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act can be accomplished with no additional cost to local government

---

CHAPTER 616

An act to amend Section 29 5 of Chapter 977 of the Statutes of 1976, as added by Section 40 of Chapter 21 of the Statutes of 1977, relating to demonstration programs, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 29 5 of Chapter 977 of the Statutes of 1976, as added by Section 40 of Chapter 21 of the Statutes of 1977, is amended to read·

Sec 29.5. The costs incurred in the implementation of this act by the two demonstration counties selected pursuant to Section 2 shall be financed as follows

(a) During the 1977–78 fiscal year, on a basis of 90 percent state funds and 10 percent county funds;

(b) During the 1978–79 fiscal year, on a basis of 80 percent state funds and 20 percent county funds;

(c) During the 1979–80 and 1980–81 fiscal years, on a basis of 66 ⅔ percent state funds and 33 ⅓ percent county funds

Commencing July 1, 1979, the State Department of Social Services shall advance payments monthly to each of the two demonstration counties on the basis of one-twelfth of each county's annual allocation from the state and shall reconcile such payments in the last month

of each fiscal 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 ensure proper financing of the demonstration counties it is necessary that this act go into effect at the earliest possible date.

CHAPTER 617

An act to amend and renumber Sections 6553 and 6554 of the Elections Code, relating to candidates, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 6553 of the Elections Code is amended and renumbered to read·

6554. The filing fees for all candidates required to file declarations of intention to become a candidate shall be paid at the time such declarations are filed with the county clerk. The filing fees for all other candidates shall be paid at the time the candidates obtain their nomination forms from the county clerk. The county clerk shall not accept any papers unless the fees are paid at the time required by this section, or unless satisfactory evidence is given to the county clerk or to the registrar of voters that such fee has been paid at the time of the declaration of candidacy in another county The county clerk shall transmit the appropriate fees to the Secretary of State at the time he or she delivers the declarations of candidacy for filing. All filing fees received by the Secretary of State and county clerks are nonrefundable

SEC. 2. Section 6554 of the Elections Code is amended and renumbered to read·

6553 The filing fee to be paid to the county clerk for filing a declaration of candidacy for an office to be voted for wholly within one county other than a legislative or congressional office shall be as follows:

(a) No filing fee is required from any candidate for an office for which no fixed compensation is payable, or for which the annual salary is two thousand five hundred dollars ($2,500) or less

(b) A filing fee of 1 percent of the annual salary of the office shall be paid to the county clerk by each candidate for a judicial office or for the office of district attorney.

(c) A filing fee of 2 percent of the annual salary of the office shall be paid to the county clerk by each candidate for other county

offices.

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 imperative that this election procedure bill takes effect prior to pending elections. Therefore, it is necessary that this act take immediate effect.

CHAPTER 618

An act to add Section 13 to the Fish and Game Code, relating to communication.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 13 is added to the Fish and Game Code, to read—

13. Any notice or other written communication required to be sent to any person by this code or regulations made pursuant thereto, is sufficient notice if sent by certified mail to the last address furnished to the department by such person

---

CHAPTER 619

An act to amend Sections 705, 705.1, 714, 857, 859, 881, 882, 900.5, 940.1, 949, 1589, 1590, 1599, 1601, 1718, 1750, 1751, 1751.3, 1755, 1811, 10506.1, and 12970 of the Insurance Code, relating to insurance.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 705 of the Insurance Code is amended to read

705 The commissioner shall require the payment of fifty dollars ($50) in lawful money of the United States, in advance as a fee for filing an application for each amendment of a certificate of authority authorizing any insurer to transact business in this state. Notwithstanding the provisions of Section 701 each insurer possessing a certificate of authority of indefinite term pursuant to such section shall owe and pay an annual fee of one hundred fifty dollars ($150) in lawful money of the United States in advance on

account of such certificate until its final expiration. Such fee shall be for annual periods commencing on July 1st of each year and ending on June 30th of each year and shall be due on each March 1st and shall be delinquent on and after each April 1st

SEC 2 Section 705 1 of the Insurance Code is amended to read.

705.1 The commissioner shall require the payment of one thousand five hundred dollars ($1,500) in lawful money of the United States in advance as a fee for filing an application and all supporting exhibits including articles of incorporation, certificates of organization, certificates of capital and assets, certificates of deposit, financial statements, affidavits, appointments of agents for service of process, bonds, deposit schedules, appraisals, and other papers, in support of each original certificate of authority Such fee shall be in lieu of the fees for filing or receiving such papers in support of an application for an original certificate of authority as specified in Section 940 1 and as specified in the following sections of the Insurance Code as they existed on January 1, 1963: 705, 712, 900 5, 946, 976, 1350, 1590 (but not 1599), 1601, 7034, 9034 and 11090

SEC 3. Section 714 of the Insurance Code is amended to read:

714 The commissioner shall require the payment of twenty-five dollars ($25) in lawful money of the United States, in advance, as a fee for filing papers required under Section 713, on account of change or changes made at one time

SEC 4 Section 857 of the Insurance Code is amended to read·

857 The commissioner shall charge and collect the following fees

(a) For filing an original or supplemental application for a permit to issue securities, except applications for a permit to issue securities evidencing any change in rights, preferences, privileges, or restrictions on outstanding securities, one hundred dollars ($100) plus the sum of the following·

(1) Twenty one-hundredths of 1 percent of the amount of any excess of the aggregate value of the securities sought to be issued over one thousand dollars ($1,000) and not exceeding fifty thousand dollars ($50,000)

(2) Ten one-hundredths of 1 percent of such amount in excess of fifty thousand dollars ($50,000) and not exceeding one hundred thousand dollars ($100,000)

(3) Five one-hundredths of 1 percent of such amount in excess of one hundred thousand dollars ($100,000) and not exceeding five hundred thousand dollars ($500,000).

(4) Two one-hundredths of 1 percent of such amount in excess of five hundred thousand dollars ($500,000) and not exceeding five million dollars ($5,000,000).

(5) One one-hundredth of 1 percent of such amount in excess of five million dollars ($5,000,000) and not exceeding ten million dollars ($10,000,000)

(6) One five-hundredth of 1 percent of such amount in excess of ten million dollars ($10,000,000)

(b) For filing an application for a permit to issue securities evidencing any change in the rights, preferences, privileges, or restrictions on outstanding securities, one hundred dollars ($100)

An original or supplemental application shall not be amended after the permit sought thereby or by amendment thereto has been issued or denied

SEC 5 Section 859 of the Insurance Code is amended to read

859 The commissioner shall also collect the following fees:

(a) For filing any application for an amendment to an existing permit to issue securities, or for a permit to negotiate for the sale of securities, fifty dollars ($50)

(b) For filing any application for a broker's certificate, one hundred dollars ($100) for the first office or location plus fifty dollars ($50) for each additional office or location.

(c) For filing any application for an agent's certificate, fifty dollars ($50)

(d) For an examination, audit, or investigation, the actual amount of expenses reasonably incurred in the performance of the work, plus the following

(1) If made by an employee of the commissioner, the actual amount of the compensation paid to such employee for that time

(2) The amount of the usual cost to the state of typing, transcribing or otherwise preparing any written report of such examination, audit or investigation that may reasonably be needed in the discharge of the commissioner's duties.

SEC 6 Section 881 of the Insurance Code is amended to read:

881 The commissioner shall require the name or any changed name of every insurer (including reciprocal or interinsurance exchanges), every attorney in fact, every motor club and every underwritten title company to be submitted to him by written application and approved by him before such name is used in this state for business purposes. He may reject any name so submitted when it is an interference with, or too similar to, one already appropriated, or when it is likely to mislead the public in any respect. In such case a name not liable to such objection must be chosen

If the commissioner rejects a name in use elsewhere by an already organized entity which has not commenced an insurance business in this state but is doing an insurance business elsewhere and approves and reserves a new name for such entity, such entity shall within 120 days

(a) Adopt such new name by appropriate legal steps to amend its articles of incorporation, charter or other basic document, or

(b) Arrange to conduct any business it may do with the public in California under such approved name as an operating name, retaining its true name for all official business, or

(c) Abandon whatever application for admission, securities permit or other application it may have pending before the commissioner

If the commissioner rejects a name proposed by an entity which

has not commenced transaction of insurance anywhere it shall organize under a new name approved by the commissioner, or if already organized legally adopt such new name. Until it does the commissioner may refuse to accept or act upon any such application.

Except as hereinafter provided the commissioner shall charge and collect in advance a fee of fifty dollars ($50) for filing an application for name approval. An application for name approval may contain not more than two alternate names in the order of applicant's choice without additional fee, but the commissioner's approval shall be limited to only one name submitted by any one application.

Where the person seeking approval of a name is also an applicant for admission and has paid the statutory fee for filing such application and the same is pending, an application for name approval may be filed without additional charge. The fee chargeable when and as provided in this section is in addition to any other fees specified in this code.

Notwithstanding the provisions of Sections 1282 and 12221 of this code, the provisions of this section shall apply to reciprocal insurers, including their attorneys in fact, and shall apply to motor clubs, respectively.

SEC. 6.5. Section 881 of the Insurance Code is amended to read:

881 The commissioner shall require the name or any changed name of every insurer (including reciprocal or interinsurance exchanges), every attorney in fact, every motor club and every underwritten title company to be submitted to him by written application and approved by him before such name is used in this state for business purposes. If approved, the commissioner shall issue his official certificate approving the same, and when appropriate, reserving the name for the following time periods, which shall commence on the date of the approval:

(1) One year where the applicant is newly formed, or where the application is filed on behalf of an entity to be formed, under the laws of this state.

(2) 180 days and during the pendency in good faith of an application for certificate of authority in the case of a foreign or alien applicant

(3) 90 days in the case of an admitted entity requesting authority to change the name under which it will conduct its business with the public in this state.

Except in the case where an applicant has already paid a fee on a pending application for admission, the commissioner shall collect a fifty dollar ($50) fee for filing each application for name approval and reservation. An application for name approval may contain not more than three names in the order of applicant's preference and the commissioner's approval shall be limited to only one name submitted by any one application

The certificate of approval shall be attached to the articles of incorporation before the Secretary of State shall file such articles or any amended articles. The commissioner may reject any name so

submitted when it is an interference with, or too similar to one already appropriated, or when it is likely to mislead the public in any respect. In the event of such a rejection, the applicant shall legally change its name to one approved by the commissioner or, if a foreign or alien insurer, may arrange to conduct any business it may do with the public in California under an approved name as an operating name, identifying itself under both its true name and operating name in the conduct of all official business with the commissioner.

Notwithstanding the provisions of Sections 1282 and 12221 of this code, the provisions of this section shall apply to reciprocal insurers, including their attorneys in fact, and shall apply to motor clubs, respectively.

SEC 7. Section 882 of the Insurance Code is amended to read:

882. An insurer proposing to issue an underwriter's policy or any policy under a name differing from that of the insurer, must first file an application for approval and registration of the name or title under which the policy is to be issued with the commissioner. The commissioner may reject any name so submitted when it is an interference with, or too similar to, one already appropriated or when it is likely to mislead the public in any respect. In such case the application may be amended to submit another or other names.

The commissioner shall charge and collect in advance a fee of twenty-five dollars ($25) for filing an application for approval and registration of such name or title, or for filing any amendment thereto.

SEC. 8. Section 882 of the Insurance Code is amended to read:

882. When two or more insurers propose to issue an underwriter's policy , each insurer must first file an application with the commissioner for approval and registration of the name or title under which the policy is to be issued. The commissioner may reject any name submitted when it is an interference with, or too similar to, one already appropriated or when it is likely to mislead the public in any respect. In such case the application may be amended to submit another or other names

The commissioner shall charge and collect in advance a fee of twenty-five dollars ($25) from each insurer filing an application for approval and registration of such name or title, or for filing any amendment thereto.

SEC. 9. Section 900.5 of the Insurance Code is amended to read:

900.5. The commissioner shall charge and collect fifty dollars ($50) in advance as a fee for the first filing each year of a statement under this article. Only one such fee shall be charged or collected from any one insurer in any one calendar year.

SEC. 10. Section 940 1 of the Insurance Code is amended to read:

940 1 The commissioner shall require the payment of fifty dollars ($50) in lawful money of the United States in advance for receiving and processing securities or deposit schedules for securities deposited pursuant to this article An additional fee of twenty-five dollars ($25) shall be payable for each withdrawal, substitution, or

any other change in the securities comprising such deposit. There shall be no other or additional fee for attaching the commissioner's seal to a securities deposit schedule for a deposit under this article.

SEC 11. Section 949 of the Insurance Code is amended to read:

949 The commissioner shall require the payment of twenty-five dollars ($25) in lawful money of the United States, in advance, as a fee for each certificate issued pursuant to this article.

SEC. 12 Section 1589 of the Insurance Code is amended to read:

1589. Whenever such a deposit is made with the commissioner, he shall issue to the depositing insurer a certificate under his official seal stating the items and amount of securities so deposited, and their value, to the best of his knowledge. In case of withdrawal and substitution, he shall issue a supplemental certificate of similar nature

The commissioner shall require the payment of fifty dollars ($50) in lawful money of the United States in advance as a fee for issuing the first such certificate provided for in this article to each insurer, and twenty-five dollars ($25) for each additional certificate or each supplemental certificate evidencing any withdrawal, substitution, or other change in the securities deposited. There shall be no other or additional fee for attaching the commissioner's seal to a securities deposit schedule in such instances. The fees prescribed herein are separate from and not cumulative upon those prescribed by Article 11 (commencing with Section 939), Chapter 1, Part 2, Division 1 of this code.

SEC. 13 Section 1590 of the Insurance Code is amended to read·

1590. The commissioner shall require the payment of twenty-five dollars ($25) in lawful money of the United States, in advance, as a fee for filing a certificate of deposit of securities under this article

SEC. 14 Section 1599 of the Insurance Code is amended to read:

1599 The commmissioner shall require the payment of ten dollars ($10) in lawful money of the United States, in advance, as a fee for filing each certificate of a trustee required to be filed by Section 1592

SEC 15 Section 1601 of the Insurance Code is amended to read:

1601 No fee shall be charged, except as included in the application for certificate of authority fee provided by Article 3, Chapter 1, Part 2, Division 1 of this code, for filing the initial appointment under this article by an applicant for admission. Thereafter the commissioner shall require the payment of twenty-five dollars ($25) in lawful money of the United States in advance as a fee for filing appointment of agent or stipulation or both by every admitted foreign or alien insurer, under this article.

SEC 16 Section 1718 of the Insurance Code is amended to read·

1718. (a) On or before March 15th of the year in which a permanent license will expire, the commissioner shall mail, to the latest address on file with his office, an application to the licensee, or to the employer in the case of a solicitor, to renew such license for the appropriate succeeding license year or term Failure to mail such

application, due to clerical error or inadvertence, shall not continue the right to a license

(b) Application for renewal of a license may be filed on or before April 15th prior to the termination of the license year or term upon payment of the fee for filing specified in Section 1750

(c) Such application for renewal of a license may be filed between April 15th and July 1st of such year upon payment of the fee specified in subdivision (b) and an additional penalty fee in the amount specified for a one-year period in Section 1750 for such filing, but in no case shall such additional penalty fee exceed thirty dollars ($30) for any one such application

(d) Upon failure to file application as provided in either (b) or (c) hereof, the license shall expire on July 1st of the applicable year, but the holder may file an application for a new license Until June 30th of the next succeeding year, the fee shall be the total fee specified in subdivision (c) for such filing

SEC 16 5 Section 1718 of the Insurance Code is amended to read

1718 (a) On or before March 15th of the year in which a permanent license will expire, the commissioner shall mail, to the latest address on file with his office, an application to the licensee to renew such license for the appropriate succeeding license year or term Failure to mail such application, due to clerical error or inadvertence, shall not continue the right to a license.

(b) Application for renewal of a license may be filed on or before April 15th prior to the termination of the license year or term upon payment of the fee for filing specified in Section 1750.

(c) Such application for renewal of a license may be filed between April 15th and July 1st of such year upon payment of the fee specified in subdivision (b) and an additional penalty fee in the amount specified for a one-year period in Section 1750 for such filing, but in no case shall such additional penalty fee exceed thirty dollars ($30) for each individual licensee or natural person so named to transact insurance for an organization.

(d) Upon failure to file application as provided in either (b) or (c) hereof, the holder may file an application for a renewal of his license until June 30th of the next succeeding year. The fee for such renewal application shall be the total fee specified in subdivision (c) for such filing

SEC 17 Section 1750 of the Insurance Code is amended to read:

1750 The commissioner shall require in advance as a fee for filing application for the hereinafter designated licenses, renewals thereof, or changes in outstanding licenses, an amount calculated as set forth herein. The fee is determined by multiplying the number of natural persons to be licensed or to be named on or added to the license by the amounts specified as to each such license multiplied by the number of license years in the period of the license applied for or the remaining period of an existing license counting any initial fractional license year of such period as one year for such purpose, as follows

(a) Insurance agent, twenty-four dollars ($24).
(b) Insurance broker, thirty-five dollars ($35).
(c) Insurance solicitor, seventeen dollars ($17).
(d) Life agent, resident, twenty-four dollars ($24).
(e) Life agent, nonresident, twenty-eight dollars ($28).
(f) Variable contract agent, thirty dollars ($30).

SEC. 18. 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-four dollars ($24).
(2) Insurance broker, thirty-five dollars ($35).
(3) Life agent, resident, twenty-four dollars ($24).
(4) Life agent, nonresident, twenty-eight dollars ($28).

(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, five dollars ($5).

(c) First amendment to an application, five dollars ($5); a second and each subsequent amendment to an application, ten dollars ($10).

(d) Original application to be given the qualifying examination for a license of a fire and casualty licensee, seventeen dollars and fifty cents ($17.50) 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, seventeen dollars and fifty cents ($17 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 twenty dollars ($20), 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-five dollars ($65).

(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-five dollars ($65)

(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-five dollars ($35).

(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, ten dollars ($10).

(*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, ten dollars ($10).

(m) An application or request for clearance and cancellation notice of a current licensee of record, ten dollars ($10).

SEC 18.5. 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-four dollars ($24)

(2) Insurance broker, thirty-five dollars ($35)

(3) Life agent, resident, twenty-four dollars ($24).

(4) Life agent, nonresident, twenty-eight dollars ($28).

(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, five dollars ($5)

(c) First amendment to an application, five dollars ($5), a second and each subsequent amendment to an application, ten dollars ($10).

(d) Original application to be given the qualifying examination for a license of a fire and casualty licensee, seventeen dollars and fifty cents ($17.50) 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, seventeen dollars and fifty cents ($17 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 twenty dollars ($20), 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-five dollars ($65).

(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-five dollars ($65)

(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-five dollars ($35).

(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, ten dollars ($10)

(*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, ten dollars ($10)

(m) An application or request for clearance and cancellation notice of a current licensee of record, ten dollars ($10)

(n) An amended action notice purusant to subdivision (e) of Section 1704, two dollars and fifty cents ($2 50).

SEC 19 Section 1751 3 of the Insurance Code is amended to read

1751 3 The commissioner shall require ten dollars ($10) in advance as a fee for filing each notice of appointment or each notice of termination pursuant to Section 1707 of any of the following·

(a) An insurance agent.

(b) A life agent

(c) A travel insurance agent.

(d) An insurance solicitor.

SEC. 20 Section 1755 of the Insurance Code is amended to read:

1755 Such license shall be applied for and renewed in the same manner as is provided in this chapter for a licensee to act as an insurance agent, except that an applicant for a limited license as a travel insurance agent need not pass a qualifying examination, and that the fee for filing an application shall be ten dollars ($10) for each year or fraction thereof in the term of the license applied for.

SEC 21 Section 1811 of the Insurance Code is amended to read.

1811 For his services in connection with the filing of any application or request for any license under this chapter, the commissioner shall charge and collect the following fees.

(a) For filing an application or request for bail agent's license, one hundred dollars ($100)

(b) For filing an application or request for bail solicitor's license, one hundred dollars ($100)

(c) For filing an application or request for bail permittee's license, two hundred dollars ($200)

(d) For filing an application for examination, or reexamination twenty-four dollars ($24)

(e) For filing each annual notice of intention to keep a bail agent's license in force or a renewal application, a fee of thirty dollars ($30). In the case of a bail agent with more than one valid notice of appointment on file, the fee to be charged pursuant to this subsection shall be the fee provided herein multiplied by the number of insurers whose valid appointments are on file at the date such document is filed unless such bail agent in such document advises the commissioner of his intent to terminate the appointment of one or more such insurers, in which event the fee shall be based upon the number for insurers remaining.

(f) For filing each renewal notice of intention to keep a bail solicitor's license in force or a renewal application, a fee of thirty dollars ($30).

(g) For filing each renewal notice of intention to keep a bail permittee's license in force or a renewal application, a fee of one hundred twenty-five dollars ($125)

(h) At the time of filing an application for a license, if a qualifying examination is required for issue or in connection with such license, the fee for filing the first application to take the qualifying examination shall be paid at the time of filing application for the license

(i) For filing application or request for approval of a true or fictitious name pursuant to Section 1724 5, ten dollars ($10), except that there shall be no fee when such name is contained in an original application

(j) For filing a bond required by this chapter, except when such bond constitutes part of an original application, ten dollars ($10).

(k) For filing a first amendment to an application, five dollars ($5)

(*l*) For filing a second and each subsequent amendment to an application, ten dollars ($10).

SEC. 22 Section 10506.1 of the Insurance Code is amended to read·

10506 1 The commissioner shall require the payment of three hundred dollars ($300) in lawful money of the United States as a fee for the determination of qualification required by Section 10506 Upon completion of the determination of qualification, and, whether authorization to issue contracts providing variable benefits is granted or denied, the commissioner shall require the payment by domestic insurers of such additional amounts from the requesting domestic insurer as may be necessary to defray all administrative costs in excess of three hundred dollars ($300) incurred by the commissioner in making such determination

SEC 23 Section 12970 of the Insurance Code is amended to read

12970 The commissioner shall require in advance, in lawful

money of the United States, as a fee for examining the copy of any instrument or document furnished to him for certification purposes the following fees: (a) For comparing with the instrument or document on file with the commissioner a photostatic copy of the original on file with him, or a copy reproduced at the same time as the document or instrument so filed with the commissioner or a photostatic copy thereof:

(1) Fifty cents ($0.50) for each page of a copy of the financial statement of an insurer filed pursuant to Section 900, excluding from such computation the title page and similar preliminary material and pages entirely completed by the filing insurer with the designation "None" or its equivalent indicating that the information requested is not applicable to the filing insurer, and

(2) Twenty-five cents ($0.25) for each page of any other such instrument or document.

(b) For comparing an instrument or document made other than as described in (a) above with one on file with the commissioner:

(1) One dollar ($1) for each page of a copy of the financial statement of an insurer filed pursuant to Section 900, excluding from such computation the title page and similar preliminary material and pages entirely completed by the filing insurer with the designation "None" or its equivalent indicating that the information requested is not applicable to the filing insurer, and

(2) Twenty-five cents ($0.25) for each page of any other such instrument or document.

The term "page" as used in this section is one side of a single sheet of paper. The fee for the furnishing by the commissioner of copies of any instrument or document filed in his office shall be determined by Section 12973.7.

SEC 24. It is the intent of the Legislature, if this bill and Assembly Bill 752 are both chaptered and become effective January 1, 1980, both bills amend Section 881 of the Insurance Code, and this bill is chaptered after Assembly Bill 752, that the amendments to Section 881 proposed by both bills be given effect and incorporated in Section 881 in the form set forth in Section 6.5 of this act. Therefore, Section 6.5 of this act shall become operative only if this bill and Assembly Bill 752 are both chaptered and become effective January 1, 1980, both amend Section 881, and Assembly Bill 752 is chaptered before this bill, in which case Section 6 of this act shall not become operative.

SEC. 25. It is the intent of the Legislature, if this bill and Assembly Bill 752 are both chaptered and amend Section 882 of the Insurance Code, and this bill is chaptered after Assembly Bill 752, that the amendments to Section 882 proposed by both bills be given effect and incorporated in Section 882 in the form set forth in Section 8 of this act Therefore, Section 8 of this act shall become operative only if this bill and Assembly Bill 752 are both chaptered, both amend Section 882, and Assembly Bill 752 is chaptered before this bill, in which case Section 7 of this act shall not become operative.

SEC. 26. It is the intent of the Legislature, if this bill and Assembly Bill 689 are both chaptered and become effective January 1, 1980, both bills amend Section 1718 of the Insurance Code, and this bill is chaptered after Assembly Bill 689, that the amendments to Section 1718 proposed by both bills be given effect and incorporated in Section 1718 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 Assembly Bill 689 are both chaptered and become effective January 1, 1980, both amend Section 1718, and this bill is chaptered after Assembly Bill 689, in which case Section 16 of this act shall not become operative.

SEC. 27 It is the intent of the Legislature, if this bill and Assembly Bill 689 are both chaptered and become effective January 1, 1980, both amend Section 1751 of the Insurance Code, and this bill is chaptered after Assembly Bill 689, that the amendments to Section 1751 proposed by both bills be given effect and incorporated in Section 1751 in the form set forth in Section 18 5 of this act. Therefore, Section 18.5 of this act shall become operative only if this bill and Assembly Bill 689 are both chaptered and become effective January 1, 1980, both amend Section 1751, and Assembly Bill 689 is chaptered before this bill, in which case Section 18 of this act shall not become operative.

CHAPTER 620

An act to amend Sections 5501.5, 6705.7, 7153.2 and 7153.8 of the Financial Code, relating to savings and loan associations.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 5501 5 of the Financial Code is amended to read:

5501.5. Notwithstanding any other provision of this code and without limitation upon any rights, powers and privileges which it may otherwise have, a domestic association may do all of the following·

(a) Act as escrow holder in connection with the sale, transfer, encumbering or leasing of real property

(b) Make collections upon and otherwise service promissory notes and loans, whether for itself or for others

(c) Disburse funds for itself or for others in connection with loans, escrows or other transactions

(d) Act as trustee, and receive reasonable compensation for so acting, of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which

qualifies or qualified for specific tax treatment under Section 401 (d) of the Internal Revenue Code of 1954 or any statute amendatory thereof or supplementary thereto, and may act and receive reasonable compensation for so acting, as trustee or custodian of an individual retirement account within the meaning of Section 408 of such code, if the funds of such trust or account are invested only in savings accounts in such association, or in obligations or securities issued by such association, or in savings accounts in any other savings and loan association having its home office in this state. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subdivision

(e) As an incident to its principal activities and for the convenience of its account holders, borrowers and others, provide for the sale of checks, including travelers checks and money orders, on which the drawee is a federal home loan bank, commercial bank or other organization engaged in the business of handling such instruments

(f) Subject to regulations of the United States Treasury Department, serve as depositories for federal taxes or as treasury tax and loan depositories and satisfy any requirement in connection therewith, including (1) maintaining tax and loan accounts and note accounts and (2) pledging collateral The term "tax and loan account" means an account, the balance of which, notwithstanding Chapter 14 (commencing with Section 8100), is subject to the right of immediate withdrawal, established for receipt of payments of federal taxes and certain United States obligations, such accounts are not investment certificates or shares The term "note account" means a note that, notwithstanding Chapter 14 (commencing with Section 8100), is subject to the right of immediate call, and is evidence of funds held by depositories electing the note option under applicable United States Treasury Department regulations Note accounts are not investment certificates or shares.

SEC 2 Section 6705 7 of the Financial Code is amended to read

6705 7 Subject to the rules and regulations of the commissioner, an association may invest an amount not in excess of 2 percent of its total assets in loans, advances of credit, and interests therein, secured by commercial real property which are not otherwise authorized

SEC 3 Section 7153 2 of the Financial Code is amended to read

7153 2 An association may make amortized loans upon the security of real property in an amount in excess of 80 percent of the appraised value of such real property, if

(a) There is located thereon only a structure designed for residential use for one or two families or a structure designed for residential use for one or two families and structures ancillary to such residential use or if such real property is of the type described in subdivision (a), (b) or (c) of Section 7153 1,

(b) The amount of the loan does not exceed the lesser of: (1) for one-family structures and real property of the type described in subdivision (a), (b) or (c) of Section 7153 1, seventy-five thousand dollars ($75,000) and, for two-family structures, the amount allowable in or under Section 207(c) (3) of the National Housing Act, as amended (12 U.S C. Section 1713(c) (3)), or (2) 90 percent of the appraised value or purchase price of the security property, whichever is less;

(c) If the loan is sought or assumed for the purpose of enabling a purchaser to acquire the security property, the purchaser and the vendor or vendors have jointly executed a certification in writing stating the purchase price of the security property and the items comprising such price,

(d) The association has made or obtained, prior to approval of the loan, a written report on the credit standing of the borrower and the financial ability of such borrower to undertake and pay off the obligation involved in the loan;

(e) The borrower, including a purchaser who assumes the loan, has certified in writing that he intends to occupy at least one of the dwelling units of the property as his home and that no lien or charge upon the property other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan, or, in the case of real property of the type described in subdivisions (a), (b), and (c) of Section 7153.1, liens or charges to secure unpaid assessments for management and common expenses, has been given or executed by him; and

(f) The loan requires repayment in monthly installments and each such payment includes the monthly proration of annual taxes in advance until the unpaid balance of such loan shall have been reduced to 80 percent of the appraised value or the purchase price, if any, whichever is less, of such property

No association shall have such investments under this section aggregating at any one time more than 50 percent of its total assets. Whenever the unpaid balance of any such loan made under this section shall have been reduced to 80 percent of the appraised value or the purchase price if any, whichever is less, of such property, such loan may be removed from the above-imposed limitation of assets.

A loan under this section may be made to finance the construction of a structure described in the first paragraph hereof, but the amount by which such a loan exceeds 80 percent of the appraised value of the real property shall not be disbursed unless and until construction has been fully completed If the loan is made to finance construction of such structure for sale the borrower need not certify that he intends to occupy the property as his home, but the amount by which such loan exceeds 80 percent of the appraised value of the real property shall not be disbursed unless and until construction has been fully completed, the property has been sold and title has been conveyed to a purchaser who has executed an agreement with the association assuming and agreeing to pay the loan and there is then compliance

with all the provisions of the first paragraph hereof.

SEC 4. Section 7153.8 of the Financial Code is amended to read:

7153.8 The limitation of 90 percent set forth in subdivision (b) of Section 7153 2 of the Financial Code shall be 95 percent in the case of any loan with respect to which the requirements set forth in subdivisions (a), (c), (d), (e) and (f) of Section 7153.2 are met and with respect to which the following additional requirements are met:

(a) The amount of the loan does not exceed the lesser of:

(1) For one-family structures and real property of the type described in subdivision (a), (b) or (c) of Section 7153.1, sixty thousand dollars ($60,000) and, for two-family structures, the amount allowable in or under Section 207(c) (3) of the National Housing Act, as amended (12 U S.C Section 1713(c) (3));

(2) Ninety-five percent of the appraised value or purchase price of the security property, whichever is less.

(b) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans made under this Section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 25 percent of the association's assets unless prior approval to exceed 25 percent is given by the commissioner.

(c) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans under this section and Section 7153.2 and (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 50 percent of the association's assets and

(d) Either:

(1) That portion of the unpaid balance of such loan which is in excess of an amount equal to 90 percent of the value of the real estate is guaranteed or insured by a mortgage insurance company which has been determined to be a "qualified private insurer" by the Federal Home Loan Mortgage Corporation.

(2) The association establishes and maintains a specific reserve with respect to such loan equal to 1 percent of the unpaid principal balance thereof until the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate security, whichever is less, determined at the time the loan was made

CHAPTER 621

An act to amend Section 4101 of the Civil Code, relating to marriage.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 4101 of the Civil Code is amended to read.

4101. (a) Any unmarried male of the age of 18 years or upwards, and any unmarried female of the age of 18 years or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage.

(b) Any unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage if each of the following documents is filed with the clerk issuing the marriage license as provided in Section 4201:

(1) The consent in writing of the parents of each person who is underage, or of one of the parents or the guardian of each such person

(2) After such showing as the superior court may require, an order of such court granting permission to such underage person to marry

(c) As part of the order under subdivision (b), the court shall require the parties to such prospective marriage of a person under the age of 18 years to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if it deems such counseling necessary. Such parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination In determining whether to order the parties to participate in such premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for such counseling. The court may impose a reasonable fee to cover the cost of any such counseling provided by the county. Any such fees shall be used exclusively to cover the cost of the counseling services authorized by this section and may not be imposed if the counseling services are provided by a conciliation court

SEC 2. Section 4101 of the Civil Code is amended to read

4101 (a) Any unmarried male of the age of 18 years or upwards, and any unmarried female of the age of 18 years or upwards, and not otherwise disqualified, are capable of consenting to and consummating marriage

(b) Any unmarried male or female under the age of 18 years is capable of consenting to and consummating marriage if each of the following documents is filed with the clerk issuing the marriage license as provided in Section 4201

(1) The consent in writing of the parents of each person who is

underage, or of one of the parents or the guardian of each such person

(2) After such showing as the superior court may require, an order of such court granting permission to such underage person to marry.

(c) As part of the order under subdivision (b), the court shall require the parties to such prospective marriage of a person under the age of 18 years to participate in premarital counseling concerning social, economic, and personal responsibilities incident to marriage, if it deems such counseling necessary Such parties shall not be required, without their consent, to confer with counselors provided by religious organizations of any denomination. In determining whether to order the parties to participate in such premarital counseling, the court shall consider, among other factors, the ability of the parties to pay for such counseling. The court may impose a reasonable fee to cover the cost of any such counseling provided by the county Any such fees shall be used exclusively to cover the cost of the counseling services authorized by this section.

SEC 3 It is the intention of the Legislature that Section 1 of this act shall become operative only if this bill and Senate Bill 961 are both chaptered. Therefore, if Senate Bill 961 and this bill are both chaptered Section 1 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative. If Senate Bill 961 is not chaptered, then Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative

---

CHAPTER 622

An act to amend Sections 221, 285, 286, 3051, 11701, 11704 5, and 11709 of, and to repeal Section 11710 5 of, the Vehicle Code, relating to licensing.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 221 of the Vehicle Code is amended to read

221 (a) The term "automobile dismantler" does not include

(1) The owner of any premises on which two or more unregistered and inoperable vehicles are held or stored where such vehicles are used, or intended to be used, for restoration or as replacement parts or otherwise in conjunction with any business of a licensed dealer, manufacturer, or transporter, or in conjunction with the operation and maintenance of any fleet of motor vehicles used for the transportation of persons or property

(2) The owner of any premises or property used in conjunction with any agricultural, farming, mining, ranching, or motor vehicle

repair business

(3) Any person engaged in the restoration of vehicles of the type described in Section 5004 or in the restoration of other vehicles having historic or classic significance

(4) The owner of a steel mill, scrap metal processing facility, or similar establishment purchasing vehicles of a type subject to registration, not for the purpose of selling the vehicles in whole or in part but exclusively for the purpose of reducing such vehicles to their component materials, provided that such facility obtain, on a form approved or provided by the department, a certification by the person from whom the vehicles are obtained, that any such vehicle has been cleared for dismantling pursuant to Section 11520

(5) Any person who acquires used parts or components for resale from vehicles which have been previously cleared for dismantling pursuant to Section 11520

(b) Any vehicle acquired for the purpose expressed in paragraph (4) of subdivision (a) from other than a licensed dismantler or an independent hauler who obtained the vehicle, or parts thereof, from a licensed dismantler shall be accompanied by either a receipt issued by the department evidencing proof of clearance for dismantling under the provisions of Section 11520, or a copy of the ordinance or order issued by local authority for the abatement of such vehicle pursuant to Section 22660 The steel mill, scrap metal processing facility, or similar establishment acquiring such vehicle shall attach the form evidencing clearance or abatement to the certification required pursuant to this section

All forms specified in paragraph (4) of subdivision (a) and in this subdivision shall be available for inspection by a peace officer during business hours

SEC 2 Section 285 of the Vehicle Code is amended to read

285 "Dealer" is a person not otherwise expressly excluded by Section 286 who

(a) For commission, money, or other thing of value, sells, exchanges, buys, or offers for sale, negotiates or attempts to negotiate, a sale or exchange of an interest in, a vehicle subject to registration or a motorcycle subject to identification under this code, or induces or attempts to induce any person to buy or exchange an interest in a vehicle and, who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value, from either the seller or purchaser of said vehicle, or

(b) Is engaged wholly or in part in the business of selling vehicles or buying or taking in trade, vehicles for the purpose of resale, selling, or offering for sale, or consigned to be sold, or otherwise dealing in vehicles, whether or not such vehicles are owned by such person

SEC 3 Section 286 of the Vehicle Code is amended to read

286 The term "dealer" does not include

(a) Insurance companies, banks, finance companies, public officials, or any other person coming into possession of vehicles in the

regular course of business, who shall sell such vehicles under a contractual right or obligation, or in performance of an official duty, or in authority of any court of law; provided, such sale is for the purpose of saving the seller from loss or pursuant to the authority of a court of competent jurisdiction

(b) Persons who sell or distribute vehicles of a type subject to registration for a manufacturer to vehicle dealers licensed under this code, or who are employed by manufacturers or distributors to promote the sale of vehicles dealt in by such manufacturers or distributors; provided, however, that if any such persons also sell vehicles at retail, they shall be deemed to be vehicle dealers and are subject to this code.

(c) Persons regularly employed as salesmen by vehicle dealers licensed under this code while acting within the scope of such employment.

(d) Persons exclusively engaged in the bona fide business of exporting vehicles or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States; provided, no federal excise tax is legally payable on any of such transactions, or such tax is legally refundable on such transactions. Persons not exclusively engaged in the bona fide business of exporting vehicles but who are engaged in the business of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States shall be exempt from licensure as dealers only if their sales of such vehicles produces less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of vehicles as a business, disposing of vehicles acquired for their own use, or for use in their business when the same shall have been so acquired and used in good faith, and not for the purpose of avoiding the provisions of this code

(f) Persons who are engaged in the purchase, sale or exchange of vehicles, other than motorcycles subject to identification under this code, which are not intended for use on the highways.

(g) Persons temporarily retained as auctioneers solely for the purpose of disposing of vehicle stock inventories on behalf of the owners thereof by means of public auctions at the location of such owners' place of business, or as otherwise approved by the department, provided intermediate physical possession or control of, or an ownership interest in such inventory is not conveyed to the persons so retained

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer exclusively for carrying racing vehicles For purposes of this subdivision, "racing vehicle" means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways

(i) Any person who is a "lessor" as defined in Section 372

(j) Any person who is a "renter" as defined in Section 508.

SEC. 4. Section 3051 of the Vehicle Code is amended to read:

3051. The provisions of this chapter are not applicable to any person licensed as a transporter under Article 1 (commencing with Section 11700) or as a salesman under Article 2 (commencing with Section 11800) of Chapter 4 of Division 5, or to any licensee who is not a new motor vehicle dealer, motor vehicle manufacturer, manufacturer branch, new motor vehicle distributor, distributor branch or representative. The provisions of this chapter shall not apply to transactions involving "mobilehomes", as defined in Section 18008 of the Health and Safety Code, "recreational vehicles", as defined in Section 18010.5 of the Health and Safety Code, "commercial coaches", as defined in Section 18012 of the Health and Safety Code or off-highway motor vehicles subject to identification as defined in Section 38012. Except as otherwise provided in this chapter, the provisions of this chapter shall be applicable to a new motor vehicle dealer as defined in Section 426, a manufacturer as defined in Section 388, a manufacturer branch as defined in Section 389, a distributor as defined in Section 296, a distributor branch as defined in Section 297, a representative as defined in Section 512, or an applicant therefor.

SEC. 5. Section 11701 of the Vehicle Code is amended to read.

11701 Every manufacturer of, and manufacturer branch, distributor of, and distributor branch, transporter of, or dealer in vehicles of a type subject to registration or snowmobiles or motorcycles of a type subject to identification shall make application to the department for a license containing a general distinguishing number. The applicant shall submit proof of his status as a bona fide manufacturer, manufacturer branch, distributor, distributor branch, transporter, or dealer as may reasonably be required by the department.

SEC 6. 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

(f) If the applicant for a mobilehome dealer's license is a partnership, only those partners of the partnership who will participate in the direction, control, or management, or any combination thereof, of the sales operation of the business, or who acts in the capacity of vehicle salesman shall be required to take and successfully complete the examination specified in subdivision (a)

SEC. 7. 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 who deals only in off-highway vehicles subject to identification as defined in Section 38012

SEC 8 Section 11710 5 of the Vehicle Code is repealed

CHAPTER 623

An act to add Section 23428 7 to the Business and Professions Code, relating to alcoholic beverages, and making an appropriation therefor

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 23428 7 is added to the Business and Professions Code, to read

23428 7 For the purpose of this article, "club" also means any nonprofit social club with at least 100 members, which members are mobilehome owners within a private mobilehome park and have participated as social club members with a designated clubhouse for not less than one year

---

CHAPTER 624

An act to add Section 5026 to the Public Resources Code, relating to historical resources

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 5026 is added to the Public Resources Code, to read.

5026. Upon receipt of an application for an entry on the National Register of Historic Places and prior to making any evaluation and recommendation with respect to such application, the commission shall first submit the application to the appropriate city council or county board of supervisors for comment. The city council or county board of supervisors shall have 45 days from the date of receipt in which to transmit written comments to the commission. Each member of the commission shall be provided by staff with a copy of such comments not less than 15 days prior to the hearing on the application by the commission.

CHAPTER 625

An act to amend Sections 12814 and 12814.5 of the Vehicle Code, relating to drivers' licenses

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 12814 of the Vehicle Code is amended to read

12814 (a) Application for renewal of a license shall be made at an office of the Department of Motor Vehicles by the person to whom the license was issued. The department may in its discretion require an examination of the applicant as upon an original application, or an examination deemed by the the department to be appropriate considering the licensee's record of convictions and accidents, or an examination deemed by the department to be appropriate in relation to evidence of a condition which may affect the ability of the applicant to safely operate a motor vehicle The age of a licensee, by itself, shall not constitute evidence of a condition requiring an examination of the driving ability. If the department finds any such evidence, the department shall disclose the evidence to the applicant or licensee In the event such person is absent from the state at the time the license expires, the Director of Motor Vehicles may extend the license for a period of one year from the expiration date of the license

(b) Renewal of a driver's license shall be under terms and conditions prescribed by the department

(c) The department may adopt and administer such regulations

as shall be deemed necessary for the public safety in the implementation of a program of selective testing of applicants, and, with reference to this section, the department may waive tests for purposes of evaluation of selective testing procedures.

SEC. 2. Section 12814.5 of the Vehicle Code is amended to read:

12814 5 (a) At the discretion of the director, drivers' licenses expiring on or after January 1, 1980, may be extended for a single four-year period for licensees whose records, for the four years immediately preceding the determination of the eligibility for the extension, 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

No extension shall be granted to any person who is 70 years of age or older

(b) The department shall charge a fee of three dollars and twenty-five cents ($3 25) for each license extension issued pursuant to subdivision (a).

(c) The department shall conduct a study of the effects of the license extension and submit a report to the Legislature not later than January 1, 1982. The study shall include, but not be limited to, safety issues, including an assessment of age criteria.

(d) The department shall notify each licensee granted an extension of major changes to the Vehicle Code affecting traffic laws occurring during the prior four-year period

SEC 3 Notwithstanding the Budget Act of 1979, one million six hundred five thousand dollars ($1,605,000) appropriated in Item 176 for drivers licensing shall not be expended and shall revert to the Motor Vehicle Account

SEC 4 It is the intent of the Legislature that there be no layoff of staff because of the decreased workload which may result from implementation of this act

---

CHAPTER 626

An act to amend Sections 12607 and 12608 of the Health and Safety Code, relating to fireworks

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 12607 of the Health and Safety Code is amended to read

12607 The State Fire Marshal may deny the application for a license or the application for renewal of a license filed by any person who has been convicted of a felony involving explosives or dangerous fireworks or who has been convicted as a principal or accessory in a

crime against property involving arson or any other fire-related offense contained in Chapter 1 (commencing with Section 447a) of Title 13 of Part 1 of the Penal Code

SEC 2 Section 12608 of the Health and Safety Code is amended to read

12608 The authority to perform those acts conferred upon the employee of a licensee as provided for in Section 12583 may be denied to any person who has been convicted of a felony.

CHAPTER 627

An act to add Chapter 23 (commencing with Section 7530) to Division 7 of Title 1 of the Government Code, relating to public agencies

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Chapter 23 (commencing with Section 7530) is added to Division 7 of Title 1 of the Government Code, to read

CHAPTER 23 PUBLIC AGENCY NAME REFORM

7530 All public agencies, public entities, districts, cities, counties, and cities and counties shall, when being identified by such entity for any purpose, be identified as a public agency, public entity, district, city, county, or city and county, whichever is appropriate.

The requirements of this section shall be deemed satisfied if the words "state," "public agency," "public entity," "district," "city," "county," or "city and county," whichever is appropriate, appears on all letterhead stationery of such public agency, public entity, district, city, county, or city and county, and on all identification cards used to identify a representative of a public agency, public entity, district, city, county, or city and county; provided, that this chapter is not intended to require the reprinting of letterhead stationery or identification cards and any public agency, public entity, district, city, county, or city and county shall have one year from the effective date of this chapter to use up old letterhead stationery and identification cards

Notwithstanding any other provision of law, a written application for leave to present a claim pursuant to Section 911.4 shall be granted when it can be shown that the claimant acted with reasonable diligence in pursuing the claim and reasonably believed that the responsible entity was not a public agency by reason of its representations

SEC 2 Notwithstanding Section 2231 or 2234 of the Revenue and

Taxation Code, no appropriation is made by this act pursuant to those sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 628

An act to add Section 1463.15 to the Penal Code, and to add Section 30276 to the Public Utilities Code, relating to the Southern California Rapid Transit District

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 1463.15 is added to the Penal Code, to read.

1463.15. 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 Southern California Rapid Transit District an amount equal to 85 percent of all fines and forfeitures collected during the preceding month upon the conviction of or upon the forfeiture of bail by any person arrested or notified by a member of the security force of such district and charged with a violation of an ordinance, rule, or regulation of the district adopted pursuant to Section 30276 of the Public Utilities Code and an amount equal to the remaining 15 percent shall be transferred into the general fund of the county.

The Southern California Rapid Transit District and any county in which property is located which is under the possession or control of the district 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 30276 is added to the Public Utilities Code, to read·

30276. Violation of any ordinance, rule, or regulation enacted by the board relating to smoking or playing of any radio or other sound equipment in any transit facility owned or controlled by the district shall be an infraction punishable by a fine not exceeding fifty dollars ($50)

SEC 3 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates

a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 629

An act to add Section 1367 7 to the Health and Safety Code, and to add Sections 10123.9 and 11512.16 to the Insurance Code, relating to prenatal diagnosis of genetic disorders.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 1367 7 is added to the Health and Safety Code, to read:

1367.7. On and after January 1, 1980, every health care service plan contract that covers hospital, medical, or surgical expenses on a group basis, and which offers maternity coverage in such groups, shall also offer coverage for prenatal diagnosis of genetic disorders of the fetus by means of diagnostic procedures in cases of high-risk pregnancy. Every health care service plan shall communicate the availability of such coverage to all group contract holders and to all groups with whom they are negotiating.

SEC 2. Section 10123.9 is added to the Insurance Code, to read·

10123 9. On and after January 1, 1980, every group policy of disability insurance which covers hospital, medical, or surgical expenses on a group basis, and which offers maternity coverage in such groups, shall also offer coverage for prenatal diagnosis of genetic disorders of the fetus by means of diagnostic procedures in cases of high-risk pregnancy. Such coverage shall be offered under such terms and conditions as may be agreed upon between the insurer and the group policyholder. Every group policy of disability insurance shall communicate the availability of such coverage to all group policyholders and to all groups with whom they are negotiating

SEC. 3 Section 11512 16 is added to the Insurance Code, to read·

11512.16. On and after January 1, 1980, every nonprofit hospital service plan that covers hospital, medical, or surgical expenses on a group basis, and which offers maternity coverage in such groups, shall also offer coverage for prenatal diagnosis of genetic disorders of the fetus by means of diagnostic procedures in cases of high-risk pregnancy. Every nonprofit hospital service plan shall communicate the availability of coverage to all group contract holders and to all groups with whom they are negotiating

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 630

An act to amend and repeal Sections 22724, 44922, 87483, and 89516 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 22724 of the Education Code is amended to read·

22724. Notwithstanding any other provision of this chapter, the governing board of a school district or a community college district may establish regulations which allow an employee who is a member of this system to reduce his workload from full-time to part-time duties, and receive the service credit he would receive if he was employed on a full-time basis and have his retirement allowance, as well as any other benefits that he is entitled to under this part, based upon the salary that he would have received if employed on a full-time basis

Such regulations shall include but shall not be limited to the following.

(a) The option of part-time employment must be exercised at the request of the member and can be revoked only with the mutual consent of the employer and the member.

(b) The member must have been employed full-time in a position requiring membership in this system for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee must have been employed full time in a position requiring membership in this system for a total of at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision

(d) The member must have reached the age of 55 prior to reduction in workload

(e) The period of such part-time employment shall not extend beyond the end of the school year during which the member reaches his 65th birthday

(f) The period of such part-time employment shall not exceed five years

(g) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the member's contract of employment during his final year of service in a full-time position

(h) The member shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment.

The member shall contribute to the Teachers' Retirement Fund the amount that would have been contributed had the member been employed full time

The employer shall contribute to the Teachers' Retirement Fund an amount based upon the salary that would have been paid to the member had the member been employed full time and at the rate specified by the board

The employer shall maintain the necessary records to separately identify each member receiving credit pursuant to this section.

This section shall remain in effect only until June 30, 1983, and as of such date is repealed, unless a later enacted statute, which becomes operative before that date, deletes or extends such date However, any member who commences part-time employment pursuant to this section prior to June 30, 1983, may continue such part-time employment and receive such retirement benefits and health benefits until the member has completed five years of such part-time employment

SEC 2 Section 44922 of the Education Code is amended to read:

44922 Notwithstanding any other provision, the governing board of a school district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 of this code or Section 20815 of the Government Code

(a) The employee must have reached the age of 55 prior to reduction in workload

(b) The employee must have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment

(c) During the period immediately preceding a request for a reduction in workload, the employee must have been employed full time in a position requiring certification for a total of at least five years without a break in service For purposes of this subdivision,

sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision

(d) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(e) The employee shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he makes the payments that would be required if he remained in full-time employment.

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his final year of service in a full-time position

(g) This option is limited in prekindergarten through grade 12 to certificated employees who do not hold positions with salaries above that of a school principal.

(h) The period of such part-time employment shall not exceed five years

(i) The period of such part-time employment shall not extend beyond the end of the school year during which the employee reaches his 65th birthday.

This section shall remain in effect only until June 30, 1983, and as of such date is repealed, unless a later enacted statute, which becomes operative before that date, deletes or extends such date. However, any member who commences part-time employment pursuant to this section prior to June 30, 1983, may continue such part-time employment and receive such retirement benefits and health benefits until the member has completed five years of such part-time employment

SEC 3 Section 87483 of the Education Code is amended to read:

87483 Notwithstanding any other provision, the governing board of a community college district may establish regulations which allow their certificated employees to reduce their workload from full-time to part-time duties

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 22724 of this code or Section 20815 of the Government Code

(a) The employee must have reached the age of 55 prior to reduction in workload

(b) The employee must have been employed full time in a position requiring certification for at least 10 years of which the immediately preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee must have been employed full time in a position requiring certification for a total of at least five years without a break in service. For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(d) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee

(e) The employee shall be paid a salary which is the pro rata share of the salary he would be earning had he not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which he makes the payments that would be required if he remained in full-time employment

The employee shall receive health benefits as provided in Section 53201 of the Government Code in the same manner as a full-time employee

(f) The minimum part-time employment shall be the equivalent of one-half of the number of days of service required by the employee's contract of employment during his final year of service in a full-time position.

(g) The period of such part-time employment shall not exceed five years

(h) The period of such part-time employment shall not extend beyond the end of the school year during which the employee reaches his 65th birthday

This section shall remain in effect only until June 30, 1983, and as of such date is repealed, unless a later enacted statute, which becomes operative before that date, deletes or extends such date However, any member who commences part-time employment pursuant to this section prior to June 30, 1983, may continue such part-time employment and receive such retirement benefits and health benefits until the member has completed five years of such part-time employment

SEC. 4 Section 89516 of the Education Code is amended to read:

89516. The trustees may establish rules and regulations which allow academic teaching employees, librarians, counselors, and student affairs officers to reduce their workload from full-time to part-time duties.

Such regulations shall include but shall not be limited to the following if such employees wish to reduce their workload and maintain retirement benefits pursuant to Section 20815 of the Government Code

(a) The employee must have reached the age of 55 prior to reduction in workload

(b) The employee must have been employed full-time as an academic employee for at least 10 years of which the immediately

preceding five years were full-time employment.

(c) During the period immediately preceding a request for a reduction in workload, the employee must have been employed full time in a position requiring certification for a total of at least five years without a break in service For purposes of this subdivision, sabbaticals and other approved leaves of absence shall not constitute a break in service. Time spent on a sabbatical or other approved leave of absence shall not be used in computing the five-year full-time service requirement prescribed by this subdivision.

(d) The option of part-time employment must be exercised at the request of the employee and can be revoked only with the mutual consent of the employer and the employee.

(e) The employee shall be paid a salary which is the pro rata share of the salary the employee would be earning had the employee not elected to exercise the option of part-time employment but shall retain all other rights and benefits for which the employee makes the payments that would be required if the employee remained in full-time employment.

The employee shall receive health benefits in the same manner as a full-time employee.

(f) The period of such part-time employment shall not exceed five years.

(g) The period of such part-time employment shall not extend beyond the end of the school year during which the employee reaches his 65th birthday.

This section shall only be applicable to academic teaching employees, librarians, counselors, and student affairs officers who receive no higher salary than the maximum paid to a department chairman.

This section shall remain in effect only until June 30, 1983, and as of such date is repealed, unless a later enacted statute, which becomes operative before that date, deletes or extends such date. However, any member who commences part-time employment pursuant to this section prior to June 30, 1983, may continue such part-time employment and receive such retirement benefits and health benefits until the member has completed five years of such part-time employment.

SEC 5. The Legislative Analyst with the cooperation of the Teachers' Retirement Board shall conduct a study to evaluate the part-time employment with full receipt of retirement credit program authorized by Section 22724 of the Education Code. If deficiencies are found, recommendations for improvement shall be made and the findings shall also include the anticipated cost of all recommendations and suggested methods for funding such cost and shall be transmitted to the Legislature by April 1, 1980.

CHAPTER 631

An act to amend Section 11018.1 of the Business and Professions Code, relating to subdivided lands.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 11018.1 of the Business and Professions Code is amended to read:

11018 1. (a) A copy of the public report of the commissioner, when issued, shall be given to the prospective purchaser by the owner, subdivider or agent prior to the execution of a binding contract or agreement for the sale or lease of any lot or parcel in a subdivision. The requirement of this section extends to lots or parcels offered by the subdivider after repossession. A receipt shall be taken from the prospective purchaser in a form and manner as set forth in regulations of the Real Estate Commissioner.

(b) A copy of the public report shall be given by the owner, subdivider or agent at any time, upon oral or written request, to any member of the public. A copy of the public report and a statement advising that a copy of the public report may be obtained from the owner, subdivider or agent at any time, upon oral or written request, shall be posted in a conspicuous place at any office where sales or leases or offers to sell or lease lots within the subdivision are regularly made

SEC. 2. This act shall become operative July 1, 1980.

CHAPTER 632

An act to add Chapter 2.5 (commencing with Section 60) to Division 1 of the Probate Code, relating to wills

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Chapter 2.5 (commencing with Section 60) is added to Division 1 of the Probate Code, to read.

CHAPTER 2.5 UNIFORM INTERNATIONAL WILLS ACT

60 In this chapter

(a) "International will" means a will executed in conformity with Sections 60 1 to 60 4, inclusive.

(b) "Authorized person" and "person authorized to act in connection with international wills" means a person who by Section 60 8, or by the laws of the United States including members of the diplomatic and consular service of the United States designated by Foreign Service Regulations, is empowered to supervise the execution of international wills.

60 1 (a) A will shall be valid as regards form, irrespective particularly of the place where it is made, of the location of the assets and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of this chapter.

(b) The invalidity of the will as an international will shall not affect its formal validity as a will of another kind.

(c) This chapter shall not apply to the form of testamentary dispositions made by two or more persons in one instrument.

60 2 (a) The will shall be made in writing. It need not be written by the testator himself It may be written in any language, by hand or by any other means

(b) The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is his or her will and that he or she knows the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

(c) In the presence of the witnesses, and of the authorized person, the testator shall sign the will or, if he or she has previously signed it, shall acknowledge his or her signature.

(d) When the testator is unable to sign, the absence of his or her signature does not affect the validity of the international will if the testator indicates the reason for his or her inability to sign and the authorized person makes note thereof on the will. In these cases, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator to sign the testator's name for him or her, if the authorized person makes note of this also on the will, but it is not required that any person sign the testator's name for him or her.

(e) The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

60.3 (a) The signatures shall be placed at the end of the will. If the will consists of several sheets, each sheet will be signed by the testator or, if he or she is unable to sign, by the person signing on his or her behalf or, if there is no such person, by the authorized person. In addition, each sheet shall be numbered.

(b) The date of the will shall be the date of its signature by the authorized person That date shall be noted at the end of the will by the authorized person

(c) The authorized person shall ask the testator whether he or she wishes to make a declaration concerning the safekeeping of his or her will If so and at the express request of the testator the place where he or she intends to have his or her will kept shall be mentioned in

the certificate provided for in Section 60.4.

(d) A will executed in compliance with Section 60.2 shall not be invalid merely because it does not comply with this section.

60.4. The authorized person shall attach to the will a certificate to be signed by him establishing that the requirements of this chapter for valid execution of an international will have been complied with. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate shall be substantially in the following form:

CERTIFICATE

1. I, (name, address and capacity), a person authorized to act in connection with international wills
2. Certify that on _____(date) at _____ (place)
3. testator _____
(name, address, date and place of birth) in my presence and that of the witnesses
4 (a) _____(name, address, date and place of birth)
(b) _____(name, address, date and place of birth)
has declared that the attached document is his will and that he knows the contents thereof.
5. I furthermore certify that:
6. (a) in my presence and in that of the witnesses
(1) the testator has signed the will or has acknowledged his signature previously affixed.
*(2) following a declaration of the testator stating that he was unable to sign his will for the following reason _____,
I have mentioned this declaration on the will
*and the signature has been affixed by _____
_____ (name and address)
7 (b) the witnesses and I have signed the will;
8. *(c) each page of the will has been signed by _____
_____ and numbered;
9. (d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;
10 (e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;
11. *(f) the testator has requested me to include the following statement concerning the safekeeping of his will:

---

*to be completed if appropriate

12. PLACE OF EXECUTION
13. DATE
14 SIGNATURE and, if necessary, SEAL

60 5. In the absence of evidence to the contrary, the certificate

of the authorized person shall be conclusive of the formal validity of the instrument as a will under this chapter. The absence or irregularity of a certificate shall not affect the formal validity of a will under this chapter.

60.6 The international will shall be subject to the ordinary rules of revocation of wills.

60.7 Sections 60 through 60.6 derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting and applying this chapter, regard shall be had to its international origin and to the need for uniformity in its interpretation.

60.8. Individuals who have been admitted to practice law before the courts of this state and who are in good standing as active law practitioners in this state, are hereby declared to be authorized persons in relation to international wills.

The Secretary of State shall establish a registry system by which authorized persons may register in a central information center, information regarding the execution of international wills, keeping that information in strictest confidence until the death of the maker and then making it available to any person desiring information about any will who presents a death certificate or other satisfactory evidence of the testator's death to the center. Information that may be received, preserved in confidence until death, and reported as indicated is limited to the name, social security or other individual identifying number established by law, if any, address, date and place of birth of the testator, and the intended place of deposit or safekeeping of the instrument pending the death of the maker. The Secretary of State at the request of the authorized person, may cause the information it receives about execution of any international will to be transmitted to the registry system of another jurisdiction as identified by the testator, if that other system adheres to rules protecting the confidentiality of the information similar to those established in this state

---

CHAPTER 633

An act to add Section 32407 to the Revenue and Taxation Code, relating to taxation

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 32407 is added to the Revenue and Taxation Code, to read:

32407 (a) The State Board of Equalization shall refund without interest to the licensee the amount of the tax imposed under this part

with respect to the alcoholic beverages and which has been paid by the licensee as part of his purchase price of the alcoholic beverages, when such beverages were lost, rendered unmarketable, or condemned by a duly authorized official by reason of:

(1) Fire, flood, casualty, or other disaster, or

(2) Breakage, destruction, or other damage (but not including theft) resulting from vandalism, malicious mischief, or insurrection if such disaster or damage occurred in this state and if such beverages were held and intended for sale at the time of such disaster or other damage. The payments provided for in this section shall be made to the person holding such beverages for sale at the time of such disaster or other damage

(b) The State Board of Equalization may approve claims for refunds without interest under this section upon proof satisfactory to it that the alcoholic beverages were destroyed or damaged so that they could not be sold and that the licensee has not otherwise been compensated for the loss in the amount of the tax included in the purchase price paid for the alcoholic beverages. A claim for refund under this section shall be in such form and accompanied by such proof as the State Board of Equalization may require.

(c) No claim shall be allowed under this section unless such claim is filed within six months after the date on which such beverages were lost, rendered unmarketable, or condemned by a duly authorized official.

(d) No claim of less than two hundred fifty dollars ($250) shall be allowed under this section with respect to any disaster or other damage

SEC. 2. The provisions of this act shall apply to disasters or other damages occurring on or after the first day of the first calendar quarter commencing more than 90 days after the effective date of this act

---

CHAPTER 634

An act to amend Sections 4036 and 4047.5 of the Business and Professions Code, and to amend Sections 11027, 11164, 11167, 11200, 11206 and 26662 of the Health and Safety Code, relating to prescriptions

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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(s) 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(s) and address of the patient(s), 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.

The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(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(s) and address of the patient(s) 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. In the event of a conflict between the provisions of this subdivision and Section 11164 of the Health and Safety Code, the provisions of Section 11164 shall prevail.

(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(s) if such information is readily retrievable in the pharmacy.

SEC 2 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(s).

(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. 3. Section 11027 of the Health and Safety Code is amended to read:

11027. "Prescription" means an oral order for a controlled substance given individually for the person(s) for whom prescribed, directly from the prescriber to the furnisher or indirectly by means of a written order of the prescriber.

SEC. 4. 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. Upon receipt of an incompletely prepared

official prescription form of the Department of Justice, the pharmacist may enter on the face of the prescription the address of the patient.

(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 III, 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

(d) The use of commonly used abbreviations shall not invalidate

an otherwise valid prescription.

(e) Notwithstanding any provision of subdivisions (b) and (c), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

SEC 5 Section 11167 of the Health and Safety Code is amended to read

11167 In the event of an epidemic or accident or calamity, any controlled substance classified in Schedule II may be dispensed upon an oral prescription if failure to issue such a prescription might result in loss of life or intense suffering. Prior to filling such a prescription, the pharmacist shall reduce it to writing. The date of issue of the prescription and all the information required for a written prescription by Section 11164 shall be included in such written record of the prescription.

Additionally, in such an emergency a prescriber may issue a written prescription for a controlled substance classified in Schedule II which is a narcotic drug upon a form other than the official prescription form issued by the Department of Justice. However, such a prescription shall in all other respects comply with the requirements of subdivision (a) of Section 11164

When an emergency oral or written prescription is issued pursuant to this section, the prescriber shall within 72 hours submit the prescription in the form required by Section 11164 to the pharmacy or pharmacist filling the prescription. If the prescriber does not provide such a prescription within 72 hours, the pharmacist filling the emergency prescription shall, within 144 hours of the time the prescription was filled, so inform the Department of Justice.

SEC 6. Section 11200 of the Health and Safety Code is amended to read

11200. No person shall dispense or refill a controlled substance prescription more than six months after the date thereof or cause a prescription for a Schedule III or IV substance to be refilled more than five times, unless renewed by the prescriber No prescription for a Schedule II substance may be refilled.

SEC 7 Section 11206 of the Health and Safety Code is amended to read

11206 Filed prescriptions shall constitute a transaction record that, together with information that is readily retrievable in the pharmacy pursuant to Section 11164 shall show or include the following

(a) The name(s) and address of the patient(s)

(b) The date

(c) The character, quantity, and directions for use of the controlled substance involved

(d) The name, address, telephone number, category of professional licensure, and the federal controlled substance registration number of the prescriber

SEC 8 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(s).

(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.

CHAPTER 635

An act relating to community college facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

The people of the State of California do enact as follows

SECTION 1. The State Center Community College District has acquired Ratcliffe Stadium in Fresno, California, for use as a sports arena. State Center Community College District will be unable to bring Ratcliffe Stadium up to the standards prescribed by the Field Act in time to be utilized for annual events to be held this spring. There are no alternative facilities which may be used while the stadium is brought up to standard.

SEC. 2. The Governing Board of the State Center Community College District may continue to use the stadium described in Section 1 until June 30, 1982. During such period of continued use, the stadium shall not be subject to any of the provisions of Article 7 (commencing with Section 81130) or Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code.

SEC 3 Los Angeles City College, located in the Los Angeles Community College District, is currently constructing a new communications building. The building has not been completed because of contractors' delays During the construction of the new communications building, Los Angeles City College has been using its old communications building which does not meet Field Act standards There are no alternative facilities available while the new communications building is under construction.

SEC 4 The Los Angeles City College may continue to use the building described in Section 3 until September 30, 1980 During such period of continued use, the building shall not be subject to any of the provisions of Article 7 (commencing with Section 81130) or Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code.

SEC 5 Due to the unique circumstances concerning the new community college facility in the State Center Community College District, and the communications building at Los Angeles City College, and the limited nature of those exemptions, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution

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

In order that the stadium complex, which is presently serving the needs of students of the State Center Community College District and other residents of California, may continue to be utilized without interruption while the facilities are being brought up to meet Field Act standards, it is necessary that this act take effect immediately.

In order for the Los Angeles City College to use its existing communications building during the 1979–80 school year, it is necessary that this act take effect immediately.

CHAPTER 636

An act to amend Section 12403 7 of the Penal Code, relating to tear gas.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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 tear gas 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 With respect to applicants who are 62 years of age or older, such fee shall not exceed five dollars ($5). 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 637

An act to amend, add, and repeal Section 11490 of, and to add and repeal Section 11499.1 of, the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 11490 of the Health and Safety Code is amended to read:

11490. Any peace officer of this state, upon making or attempting to make an arrest for a violation of Section 11351, 11352, 11355, 11359, 11360, 11378, or 11379, insofar as the offense involves sale, transportation for sale, or possession for sale, may seize any vehicle, boat, or airplane used to unlawfully transport for sale any controlled substance If such person does not hold the vehicle, boat, or airplane for evidence or if the law enforcement agency for which such person is employed does not initiate proceedings pursuant to Section 11499 1, such person shall immediately deliver such vehicle, boat, or airplane to the State Department of Justice to be held as evidence until a forfeiture has been declared or a release ordered; otherwise he shall return the vehicle, boat, or airplane to the registered owner.

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 such date, deletes or extends such date.

SEC 1 5. Section 11490 is added to the Health and Safety Code, to read·

11490 Any peace officer of this state, upon making or attempting to make an arrest for a violation of Section 11351, 11352, 11355, 11359, 11360, 11378, or 11379, insofar as the offense involves sale, transportation for sale, or possession for sale, may seize any vehicle, boat, or airplane used to unlawfully transport for sale any controlled substance If such person does not hold the vehicle, boat, or airplane

for evidence, he or she shall immediately deliver such vehicle, boat, or airplane to the State Department of Justice to be held as evidence until a forfeiture has been declared or a release ordered; otherwise such person shall return the vehicle, boat, or airplane to the registered owner.

This section shall become operative on January 1, 1984.

SEC 2 Section 11499.1 is added to the Health and Safety Code, to read

11499 1 (a) Any city, county, or city and county may initiate forfeiture proceedings as provided for in this chapter with respect to any vehicle, boat, or airplane seized pursuant to Section 11490 by a peace officer employed by its law enforcement agency. The district attorney for the jurisdiction involved shall file and maintain such proceedings When initiating such proceedings, the district attorney and the law enforcement agency of the government entity involved shall comply with all provisions of this chapter applicable to forfeiture proceedings initiated by the state. All provisions of this chapter applicable to the forfeiture hearing and forfeiture decree, shall apply to forfeiture proceedings initiated under this section, except as otherwise herein provided.

(b) If the court or jury at such a forfeiture hearing finds that the vehicle, boat, or airplane was used in violation of this chapter, but does not find that a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract acquired such interest with actual knowledge that the vehicle, boat, or airplane was to be used for a purpose for which forfeiture is permitted, and the amount due such person is less than the appraised value of the vehicle, boat, or airplane, such person may pay to the local government entity the amount of the registered owner's equity, which shall be deemed to be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon such payment, the local government entity shall relinquish all claims to the vehicle, boat, or airplane If the holder of the interest elects not to make such payment to the local government entity, the vehicle, boat, or airplane shall be deemed forfeited to the local government entity and the ownership certificate shall be forwarded The appraised value shall be determined as of the date judgment is entered on a wholesale basis either by agreement between the legal owner and local government entity, or if they cannot agree, then by the inheritance tax appraiser for the county in which the action is brought

(c) If the amount due to a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract is less than the value of the vehicle, boat, or airplane and the person elects not to make payment to the local government entity, the vehicle, boat, or airplane shall be sold at public auction by the local government entity which shall provide notice of such sale by one publication in a newspaper published and circulated in the city,

community, or locality where the sale is to take place

(d) The proceeds of sale pursuant to subdivision (c) shall be first distributed in accordance with the provisions of subdivision (a) of Section 11495 with the balance, if any, to the local government entity initiating the forfeiture proceeding.

(e) Notwithstanding any other provision of law, a certified copy of the judgment of forfeiture issued by the court as a result of proceedings initiated by this section, filed with the Department of Motor Vehicles, appropriate federal agency, or other appropriate registry, shall constitute authority for the government entity, to either convey clear title to the vehicle, boat, or airplane to any purchaser thereof, or to register the vehicle, boat, or airplane with the Department of Motor Vehicles, appropriate federal agency, or other appropriate registry in its own name, for use in its law enforcement program

A city, county, or city and county may initiate forfeiture proceedings provided for by this section with respect to vehicles, boats, or airplanes seized by peace officers, employed by such entity, pursuant to Section 11490 and which are in possession of and being held by such officers on or after the effective date of this section

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 such date, deletes or extends such date

SEC 3 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is provided in this act to cover 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 It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code

SEC 4. This act is an ugency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are

Recently imposed fiscal constraints have reduced the ability of local law enforcement agencies to meaningfully address the increased level of traffic in controlled substances This act would encourage a more vigorous local law enforcement effort against commercial exploitation of illegal drugs and enable local government entities to convert transportive implements seized while being used in this illicit traffic, to the effort being waged against such illicit traffic In order to permit local agencies to institute such a program as soon as possible, it is necessary that this act go into immediate effect

CHAPTER 638

An act to amend Sections 4800 and 5126 of, and to repeal Section 5109 of, the Civil Code, relating to community property.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, the court shall, either in its interlocutory judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties, including any such property from which a homestead has been selected, equally For purposes of making such division, the court shall value the assets and liabilities as near as practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the community property and quasi-community property of the parties as follows

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by such party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its final judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties

(4) Educational loans shall be assigned to the spouse receiving the education in the absence of extraordinary circumstances rendering such an assignment unjust

(c) Notwithstanding the provisions of subdivision (a), community property personal injury damages shall be assigned to the party who

suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require another disposition In such case, the community property personal injury damages shall be assigned to the respective parties in such proportions as the court determines to be just, except that at least one-half of such damages shall be assigned to the party who suffered the injuries As used in this subdivision, "community property personal injury damages" means all money or other property received or to be received by a person in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for such damages, if the cause of action for such damages arose during the marriage but is not separate property as defined in Section 5126, unless such money or other property has been commingled with other community property

(d) The court may make such orders as it deems necessary to carry out the purposes of this section

SEC 2 Section 5109 of the Civil Code is repealed

SEC 3 Section 5126 of the Civil Code is amended to read

5126 (a) All money or other property received or to be received by a person in satisfaction of a judgment for damages for personal injuries or pursuant to an agreement for the settlement or compromise of a claim for such damages is the separate property of the injured person if the cause of action for such damages arose as follows

(1) After the rendition of a decree of legal separation or a final judgment of dissolution of a marriage

(2) While either spouse, if he or she is the injured person, is living separate from the other spouse

(3) After the rendition of an interlocutory decree of dissolution of a marriage

This subdivision shall apply retroactively to any case where the property rights of the marriage have not been adjudicated by a decree of dissolution or separation which has become final

(b) Notwithstanding subdivision (a), if the spouse of the injured person has paid expenses by reason of his spouse's personal injuries from his separate property or from the community property subject to his management and control, he is entitled to reimbursement of his separate property or the community property subject to his management and control for such expenses from the separate property received by his spouse under subdivision (a)

(c) Notwithstanding subdivision (a), if one spouse has a cause of action against the other spouse which arose during the marriage of the parties, money or property paid or to be paid by or on behalf of a party to his or her spouse of that marriage in satisfaction of a judgment for damages for personal injuries to such spouse or pursuant to an agreement for the settlement or compromise of a

claim for such damages is the separate property of the injured spouse

---

CHAPTER 639

An act to amend Section 29145.5 of the Food and Agricultural Code, relating to bees

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 29145 5 of the Food and Agricultural Code is amended to read·

29145.5 This article shall remain in effect only until January 1, 1985, and on that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

CHAPTER 640

An act to repeal Chapter 10 (commencing with Section 28500) of Division 22 of the Health and Safety Code, relating to food sulphurs.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Chapter 10 (commencing with Section 28500) of Division 22 of the Health and Safety Code is repealed.

CHAPTER 641

An act to amend Sections 270 03, 270 19, 270 28, 270.35, 987.53, 987 56, 987.57, 987 69, 987 78, 987.85, and 987.93 of, and to add Sections 270 101, 270 102, 270.103, 270.42, 987 601, 987.602, and 987 603 to, the Military and Veterans Code, relating to farm and home purchases

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 270 03 of the Military and Veterans Code is amended to read

270.03 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section.

(c) "Purchaser" means a member of the California National Guard or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions, provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

(*l*) "Member" means a member of the California National Guard who is not a full-time employee of the Military Department

(m) "Indian member" means a member as defined in subdivision (*l*) who is in addition a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land.

(n) "Trust land", with respect to an Indian member, includes allotment trust land and tribal trust land

(o) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(p) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band

(q) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs.

SEC 1 5 Section 270 03 of the Military and Veterans Code is amended to read·

270 03 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a member of the California National Guard or any person who has entered into a contract of purchase of a farm or home from the department

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the

purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions, provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

(*l*) "Member" means an individual on active National Guard Status and assigned to a federally-recognized unit of the California National Guard

(m) "Indian member" means a member as defined in subdivision (*l*) who is in addition a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land

(n) "Trust land," with respect to an Indian member, includes allotment trust land and tribal trust land

(o) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(p) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band

(q) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs

SEC 2 Section 270 101 is added to the Military and Veterans Code, to read

270 101 (a) For purposes of the construction of a dwelling house or other improvements for a farm or home or the acquisition of a

farm or home for an Indian member pursuant to this article, references to property or real property include a leasehold interest in trust land; references to the purchase or acquisition of property or real property include the acquisition of a leasehold interest in trust land, references to the sale of property or real property include the assignment or reassignment of a leasehold interest in trust land; and references to purchaser, seller, purchase price, and selling price refer to the acquisition or sale of a home situated or constructed upon or a farm comprising a leasehold interest in trust land.

(b) Subject to the conditions and limitations specified in Section 270.103, the department may acquire an Indian member's leasehold interest in allotment trust land for the purpose of entering into a contract with the Indian member for the acquisition of a farm or home or for the construction of a dwelling house or other improvements for a farm or home or for the purchase and installation of a mobilehome on the leasehold land.

(c) For purposes of this section, the leasehold interest to be acquired by the department shall have been granted by the person or persons for whom the land is held in trust for a term of at least 25 years renewable without notice on the same terms and conditions for an additional period of at least 25 years The lease shall be in a form acceptable to the department and to the United States Secretary of the Interior The Indian member shall satisfy the department that it and its assignees will have access to the property for the term of the lease The Indian member shall assign the lease to the department without cost and shall obtain the consent of the United States Secretary of the Interior to that assignment

SEC 3 Section 270 102 is added to the Military and Veterans Code, to read

270 102 (a) Subject to the conditions and limitations specified in Section 270 103, the department may acquire an Indian member's leasehold interest in tribal trust land for the purpose of entering into a contract with the Indian member for the acquisition of a farm or home or for the construction of a dwelling house or other improvements for a farm or home or for the purchase and installation of a mobilehome on the leasehold land

(b) For purposes of this section, the leasehold interest to be acquired by the department shall have been granted by the tribe for which the land is held in trust to the Indian member for a term of at least 25 years renewable without notice on the same terms and conditions for an additional period of at least 25 years The lease shall be in a form acceptable to the tribe, the department, and the United States Secretary of the Interior, shall be duly executed in accordance with the tribe's constitution and bylaws or other tribal laws, and shall provide that the Indian member and the Indian member's assignees shall have access to the property for the term of the lease The Indian member shall assign the lease to the department without cost and shall obtain the consent of the tribe and the United States Secretary of the Interior to that assignment

SEC 4 Section 270 103 is added to the Military and Veterans Code, to read

270 103 The department may acquire a leasehold interest in trust land and contract with an Indian member as provided in Sections 270 101 and 270.102 upon the terms agreed, if

(a) The department is satisfied of the desirability of the property submitted

(b) The Indian member has agreed with the department that the Indian member or the Indian member's immediate family will actually reside on the property within 60 days from the date of the acquisition by the department, or if the residence on the property is not complete on the date of acquisition, within 60 days after the residence is completed

(c) The sum to be expended by the department pursuant to a contract for the acquisition of a home or the construction of a dwelling house and other improvements does not exceed forty-three thousand dollars ($43,000)

(d) The Indian member has paid a reasonable fee set by the department to cover the cost of such preliminary service of the department as may be necessary to process the application

(e) The Indian member has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract, executed by a contractor licensed by the State of California or by an Indian contractor approved by the department for the construction of the improvements in accordance with the plans and specifications within eight months after the acquisition of the leasehold interest in the real property by the department, and a bond executed by the contractor providing for compliance with the terms of the contract and for the payment of materialmen and labor furnishing material or labor on the job executed by a surety company authorized to do business in the State of California

(f) The plans, specifications, contract, and bond are approved by the department

(g) The Indian member has placed in escrow all sums of money to be advanced by the Indian member where the cost is in excess of the maximum that may be expended by the department.

As used in this section, "immediate family" includes only the following

Spouse, children, either natural or adoptive, and the parents if they are dependent upon the member for 50 percent or more of their support

SEC 5 Section 270 19 of the Military and Veterans Code is amended to read

270 19 The department shall then enter into a contract with the member for the sale of the property to the member The department shall fix the selling price of the property by adding to the purchase price thereof, to the total cost of improvements constructed, or to the value of such property as determined by the department when such

property is acquired by the department in a manner other than by purchase, all expenses incurred and estimated to be incurred by the department in relation thereto, inclusive of interest, administration, appraisals, examination of title, incidental expenses, and the sum deemed necessary to meet unforeseen contingencies. In the case of real property acquired from a member for the purpose of constructing improvements thereon, the department shall forthwith after acquiring said real property enter into the contract with the member authorized by this section at a selling price determined by the amount of the contract price for the improvements and any of the other additions herein authorized. After the execution of said contract between the member and the department and the making of the initial payment thereon the department shall be authorized to pay the cost of the improvements contracted to be constructed on said real property, making progress payments thereon in such amounts and at such times as the department approves. The department shall upon written request of the member and his contractor have authority to approve additions to or deletions from the improvements contracted to be constructed and any savings affected or added cost incurred shall be deducted from or added to the amount due the department by the member under the terms of his contract

Where the department enters into a contract for the sale of property on trust land to an Indian member, the contract shall include the following conditions:

(a) The dwelling house or other improvements contracted to be constructed on trust land shall be completed in compliance with the standards of the building code applicable on the trust land. If there is no building code in force on the trust land, the applicable standards shall be those of the building code of the county in which the trust land is located.

(b) On the completion of construction, the Indian member shall provide to the department an inspection certificate from a qualified building inspector certifying that the dwelling house or other improvements comply with the standards of the building code as required by subdivision (a).

SEC. 6 Section 270.28 of the Military and Veterans Code is amended to read:

270.28 (a) In the event of a forfeiture of a contract of purchase under the provisions of this article, the department may sell or otherwise dispose of the property covered by the forfeited contract to such person and upon such terms and conditions as it deems proper.

(b) Where the department elects in the event of a forfeiture to sell or otherwise dispose of a leasehold interest in allotment trust land, the department shall first offer it for sale to the person or persons for whom the land is held in trust at a price equal to the unpaid balance of the contract price. If none of the persons for whom the land is held in trust accepts the offer, the department shall next

offer it to the United States Secretary of the Interior at the same price

(c) Where the department elects in the event of forfeiture to sell or otherwise dispose of a leasehold interest in tribal trust land, the department shall first offer it for sale to the tribe for whom the land is held in trust at a price equal to the unpaid balance of the contract price If the tribe fails to accept the offer, the department shall next offer it to the United States Secretary of the Interior at the same price

(d) Where all the parties to whom the department is required to offer the property under subdivision (b) or (c) fail to accept the offer, the department may sell or otherwise dispose of the property covered by the forfeited contract as provided by subdivision (a), and in so doing, the department shall give first preference to any good faith offer by a person approved by the tribal council of the Indian member's tribe

(e) In the event such property is subject to a participation contract the department may, at its option, pay the balance due upon such participation contract, including accrued interest without penalty

SEC 7 Section 270 35 of the Military and Veterans Code is amended to read.

270 35 The department shall not acquire a home in which the member has an interest of record except in the following instances·

(a) Where the application is for aid for the construction of a home upon unimproved real property owned by the applicant

(b) Where the member had no interest of record in the property at the time of filing his application and thereafter secured interim financing pending the processing and approval of his application by the department

(c) Where the application is to pay the balance due on an existing loan not insured or guaranteed by the federal government, and which bears an interest rate of more than 2 percent higher than the prevailing rate pursuant to this article.

(d) Where the application is for purchase of a mobilehome to be situated upon real property, or an undivided interest therein, owned by the applicant

(e) Where the applicant is an Indian member and the application is for the construction of a dwelling house or other improvements on, or for the purchase of a mobilehome to be situated on, trust land in which the Indian member has an interest of record

SEC 7 5 Section 270 42 is added to the Military and Veterans Code, to read

270 42 On or before January 1, 1982, and on or before January 1 of every even-numbered year thereafter, the department shall report to the Legislature on all of the following

(a) The number of leasehold interests acquired on trust land

(b) The forfeiture rate on loans secured by leasehold interests on trust land

(c) The disposition of forfeited leasehold interests on trust land.

SEC 8 Section 987.53 of the Military and Veterans Code is amended to read.

987.53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section It also includes a "mobilehome" as defined in subdivision (k) of this section.

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions, provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

(*l*) "Indian veteran" means a veteran as defined in Section 980 who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land.

(m) "Trust land", with respect to an Indian veteran includes allotment trust land and tribal trust land

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs

SEC. 8.2. Section 987.53 of the Military and Veterans Code is amended to read:

987 53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing income sufficient to provide payment of the amortized contract installments including principal, interest, and taxes.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section It also includes a "mobilehome" as defined in subdivision (k) of this section.

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the

purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is situate one or more mobilehome modules as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions, provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

(*l*) "Indian veteran" means a veteran as defined in Section 980 who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land

(m) "Trust land," with respect to an Indian veteran includes allotment trust land and tribal trust land.

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs

SEC 8 4 Section 987 53 of the Military and Veterans Code is amended to read

987 53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the

department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section.

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is sited one or more mobilehome modules, or a site in a mobilehome park as defined in Section 18214 of the Health and Safety Code on which one or more mobilehome modules is sited or is to be sited as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions; provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Indian veteran" means a veteran as defined in Section 980 who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase

by the department of a home or farm situated on trust land

(m) "Trust land," with respect to an Indian veteran includes allotment trust land and tribal trust land.

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs

SEC 8 6. Section 987 53 of the Military and Veterans Code is amended to read

987 53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing income sufficient to provide payment of the amortized contract installments including principal, interest, and taxes

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode It includes a "condominium," as defined in subdivision (h) of this section It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to

which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is sited one or more mobilehome modules, or a site in a mobilehome park as defined in Section 18214 of the Health and Safety Code on which one or more mobilehome modules is sited or is to be sited as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions, provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

(*l*) "Indian veteran" means a veteran as defined in Section 980 who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land.

(m) "Trust land," with respect to an Indian veteran includes allotment trust land and tribal trust land.

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs.

SEC. 9. Section 987.56 of the Military and Veterans Code is amended to read

987 56 The department shall prescribe and determine the qualifications of all veterans. Any person deeming himself a veteran and desiring to benefit hereunder, shall submit to the department information, in such form as the department prescribes, which will enable the department to determine his eligibility and qualifications. The department may make further inquiries and investigations in order to determine such eligibility and qualifications Veterans who

are otherwise qualified and who were wounded or disabled as a result of their service shall be given first preference in the benefits conferred by this article. The department shall determine, in each case, whether or not the veteran was wounded or disabled as a result of service.

The following group shall be given second preference in the benefits conferred by this article:

(a) The unremarried spouse of individuals who were members of the armed forces on active military duty, entered active duty while in the State of California, lived in this state for six months immediately preceding his or her entry into active duty, and were killed in the line of duty while on active duty.

(b) Members of the armed forces who entered active military duty while in the State of California, lived in this state for six months preceding his or her entry into active duty, and were held as prisoners of war.

(c) The unremarried spouse of members of the armed forces who entered active military duty while in the State of California, lived in this state for six months preceding his or her entry into active duty, and have been designated by the armed forces as missing in action.

The following group shall be given third preference in the benefits conferred by this article:

(a) Indian veterans whose eligibility was or could have been established prior to the effective date of this legislation.

(b) Veterans discharged or released from active duty within 10 years of their application to the department.

Nothing in this section regarding preferences shall affect any eligibility requirement for benefits conferred by this article.

SEC. 10. Section 987.57 of the Military and Veterans Code is amended to read:

987.57. (a) On and after January 1, 1981, all applications for the benefits contained in this article shall be filed with the department within 25 years from the date of the applicant's discharge from the service, or release from active duty, except applications filed by either:

(1) Veterans who were wounded or are disabled as a result of wartime service; or

(2) Veterans who were previously declared prisoners of war.

(b) Applications for benefits relating to trust land by Indian veterans not included in paragraphs (1) and (2) of subdivision (a) shall be filed with the department within 25 years from the date of the Indian veteran's discharge from the service or release from active duty, or on or before January 1, 1985, whichever is later.

(c) The department shall conduct a public information program designed to inform veterans of the provisions of subdivisions (a) and (b).

SEC. 11. Section 987.601 is added to the Military and Veterans Code, to read.

987.601. (a) For purposes of the construction of a dwelling house

or other improvements for a farm or home or the acquisition of a farm or home for an Indian veteran pursuant to this article, references to property or real property include a leasehold interest in trust land, references to the purchase or acquisition of property or real property include the acquisition of a leasehold interest in trust land, references to the sale of property or real property include the assignment or reassignment of a leasehold interest in trust land, and references to purchaser, seller, purchase price, and selling price refer to the acquisition or sale of a home situated or constructed upon or a farm comprising a leasehold interest in trust land

(b) Subject to the conditions and limitations specified in Section 987.603, the department may acquire an Indian veteran's leasehold interest in allotment trust land for the purpose of entering into a contract with the Indian veteran for the acquisition of a farm or home or for the construction of a dwelling house or other improvements for a farm or home or for the purchase and installation of a mobilehome on the leasehold land

(c) For purposes of this section, the leasehold interest to be acquired by the department shall have been granted by the person or persons for whom the land is held in trust for a term of at least 25 years renewable without notice on the same terms and conditions for an additional period of at least 25 years. The lease shall be in a form acceptable to the department and to the United States Secretary of the Interior The Indian veteran shall satisfy the department that it and its assignees will have access to the property for the term of the lease The Indian veteran shall assign the lease to the department without cost and shall obtain the consent of the United States Secretary of the Interior to that assignment.

SEC. 12. Section 987.602 is added to the Military and Veterans Code, to read·

987 602. (a) Subject to the conditions and limitations specified in Section 987.603, the department may acquire an Indian veteran's leasehold interest in tribal trust land for the purpose of entering into a contract with the Indian veteran for the acquisition of a farm or home or for the construction of a dwelling house or other improvements for a farm or home or for the purchase and installation of a mobilehome on the leasehold land

(b) For purposes of this section, the leasehold interest to be acquired by the department shall have been granted by the tribe for which the land is held in trust to the Indian veteran for a term of at least 25 years renewable without notice on the same terms and conditions for an additional period of at least 25 years. The lease shall be in a form acceptable to the tribe, the department, and the United States Secretary of the Interior, shall be duly executed in accordance with the tribe's constitution and bylaws or other tribal laws, and shall provide that the Indian veteran and his assignees shall have access to the property for the term of the lease The Indian veteran shall assign the lease to the department without cost and shall obtain the consents of the tribe and the United States Secretary of the Interior

to that assignment.

SEC. 13. Section 987.603 is added to the Military and Veterans Code, to read:

987.603. The department may acquire a leasehold interest in trust land and contract with an Indian veteran as provided in Sections 987.601 and 987.602 upon the terms agreed if:

(a) The department is satisfied of the desirability of the property submitted.

(b) The Indian veteran has agreed with the department that he or members of his immediate family will actually reside on the property within 60 days from the date of acquisition by the department, or if the residence on the property is not complete on the date of acquisition, within 60 days after the residence is completed.

(c) The sum to be expended by the department pursuant to a contract for the acquisition of a home or the construction of a dwelling house and other improvements does not exceed fifty-five thousand dollars ($55,000).

(d) The Indian veteran has paid a reasonable fee set by the department to cover the cost of such preliminary service of the department as may be necessary to process the application.

(e) The Indian veteran has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract executed by a contractor licensed by the State of California or by an Indian contractor approved by the department for the construction of the improvements, in accordance with the plans and specifications, within eight months after the acquisition of the leasehold interest in the real property by the department, and a bond executed by the contractor providing for compliance with the terms of the contract and for the payment of materialmen and labor furnishing material or labor on the job, executed by a surety company, authorized to do business in the State of California.

(f) The plans, specifications, contract, and bond are approved by the department.

(g) The Indian veteran has placed in escrow all sums of money to be advanced by him where the cost is in excess of the maximum that may be expended by the department.

As used in this section, "immediate family" includes only the following:

Spouse, children, either natural or adoptive; and the parents if they are dependent upon the veteran for 50 percent or more of their support

SEC. 14. Section 987.69 of the Military and Veterans Code is amended to read:

987 69 The department shall then enter into a contract with the veteran for the sale of the property to the veteran. The department shall fix the selling price of the property by adding to the purchase price thereof, to the total cost of improvements constructed, or to the

value of such property as determined by the department when such property is acquired by the department in a manner other than by purchase, all expenses incurred and estimated to be incurred by the department in relation thereto, inclusive of interest, administration, appraisals, examination of title, incidental expenses, and the sum deemed necessary to meet unforeseen contingencies. In the case of real property acquired from a veteran for the purpose of constructing improvements thereon, the department shall forthwith after acquiring said real property enter into the contract with the veteran authorized by this section at a selling price determined by the amount of the contract price for the improvements and any of the other additions herein authorized. After the execution of said contract between the veteran and the department and the making of the initial payment thereon the department shall be authorized to pay the cost of the improvements contracted to be constructed on said real property, making progress payments thereon in such amounts and at such times as the department shall upon written request of the veteran and his contractor have authority to approve additions to or deletions from the improvements contracted to be constructed and any savings affected or added cost incurred shall be deducted from or added to the amount due the department by the veteran under the terms of his contract.

Where the department enters into a contract for the sale of property on trust to an Indian veteran, the contract shall include the following conditions:

(a) The dwelling house or other improvements contracted to be constructed on trust land shall be completed in compliance with the standards of the building code applicable on the trust land. If there is no building code in force on the trust land, the applicable standards shall be those of the building code of the county in which the trust land is located

(b) On the completion of construction, the Indian veteran shall provide to the department an inspection certificate from a qualified building inspector certifying that the dwelling house or other improvements comply with the standards of the building code as required by subdivision (a).

SEC. 15. Section 987.78 of the Military and Veterans Code is amended to read.

987 78. (a) In the event of a forfeiture of a contract of purchase under the provisions of this article, the department may sell or otherwise dispose of the property covered by the forfeited contract to such person and upon such terms and conditions as it deems proper

(b) Where the department elects in the event of a forfeiture to sell or otherwise dispose of a leasehold interest in allotment trust land, the department shall first offer it for sale to the person or persons for whom the land is held in trust at a price equal to the unpaid balance of the contract price. If none of the persons for whom the land is held in trust accepts the offer, the department shall next

offer it to the United States Secretary of the Interior at the same price.

(c) Where the department elects in the event of forfeiture to sell or otherwise dispose of a leasehold interest in tribal trust land, the department shall first offer it for sale to the tribe for whom the land is held in trust at a price equal to the unpaid balance of the contract price. If the tribe fails to accept the offer, the department shall next offer it to the United States Secretary of the Interior at the same price

(d) Where all the parties to whom the department is required to offer the property under subdivision (b) or (c) fail to accept the offer, the department may sell or otherwise dispose of the property covered by the forfeited contract as provided by subdivision (a), and in so doing the department shall give first preference to any good faith offer by a person approved by the tribal council of the Indian veteran's tribe.

(e) In the event such property is subject to a participation contract the department may, at its option, pay the balance due upon such participation contract, including accrued interest without penalty

SEC 16. Section 987.85 of the Military and Veterans Code is amended to read

987 85. The department shall not acquire a home in which the veteran has an interest of record except in the following instances.

(a) Where the application is for aid for the construction of a home upon unimproved real property owned by the applicant

(b) Where the veteran had no interest of record in the property at the time of filing his application and thereafter secured interim financing pending the processing and approval of his application by the department

(c) Where the application is to pay the balance due on an existing loan not insured or guaranteed by the federal government, and which bears an interest rate of more than 2 percent higher than the prevailing Cal-Vet rate.

(d) Where the application is for purchase of a mobilehome to be situated upon real property, or an undivided interest therein, owned by the applicant

(e) Where the applicant is an Indian veteran and the application is for the construction of a dwelling house or other improvements on, or for the purchase of a mobilehome to be situated on, trust land in which the Indian veteran has an interest of record

SEC 17 Section 987.93 of the Military and Veterans Code, as amended by Chapter 121 of the Statutes of 1979, is amended to read·

987 93. (a) The Department of Veterans Affairs shall submit to the Legislature on June 30, 1976, a report concerning the utilization of veterans farm and home loan funds by lower income veterans and the feasibility of utilizing federal home mortgage programs and mortgage subsidy programs to make veterans farm and home loan funds available to lower income veterans

(b) On January 1 of each year, the Department of Veterans Affairs shall submit to the Legislature a report on the utilization of veterans farm and home loan funds by lower income veterans, including an annual summary of the amounts and loan-to-value ratios of loans offered to lower income veterans, the number of lower income veterans who are rejected because of insufficient income, or who declined loan offers because of inability to afford downpayments, and of the utilization of lower initial monthly payments and longer term financing to make financing available to lower income veterans. The report shall incorporate the reports required by Section 5 of Chapter 1477 of the Statutes of 1974.

(c) On or before January 1, 1982, and on or before January 1 of every even-numbered year thereafter, the department shall report to the Legislature on all of the following:

(1) The number of leasehold interests acquired on trust land.

(2) The forfeiture rate on loans secured by leasehold interest on trust land.

(3) The dispositon of forfeited leasehold interests on trust land.

(d) The report submitted on or before January 1, 1984, pursuant to subdivision (c) shall also include the department's recommendation whether the Legislature should extend the deadline of January 1, 1985, imposed by subdivision (b) of Section 987.57.

SEC. 18. It is the intent of the Legislature, if this bill and Assembly Bill 55 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 270.03 of the Military and Veterans Code, and this bill is chaptered after Assembly Bill 55, that Section 270.03 of the Military and Veterans Code, as amended by Section 2 of Assembly Bill 55, be further amended on the effective date of this act in the form set forth in Section 1.5 of this act to incorporate the changes in Section 270.03 proposed by this bill. Therefore, if this bill and Assembly Bill 55 are both chaptered and become effective on or before January 1, 1980, and Assembly Bill 55 is chaptered before this bill and amends Section 270.03, Section 1.5 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

SEC. 19. It is the intent of the Legislature that if this bill and Assembly Bill 185 or Assembly Bill 879, or both, are chaptered and become effective January 1, 1980, each of the bills amend Section 987.53 of the Military and Veterans 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 185 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53 of the Military and Veterans Code but Assembly Bill 879 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 185, the amendments proposed by both bills shall be given effect and incorporated in Section 987.53 in the form set forth in Section 8.2 of this act Therefore, if this bill and

Assembly Bill 185 are both chaptered and become effective January 1, 1980, both bills amend Section 987 53, this bill is chaptered after Assembly Bill 185, and Assembly Bill 879 is not chaptered or as chaptered does not amend that section, Section 8.2 of this act shall be operative and Sections 8, 8 4, and 8 6 of this act shall not become operative.

(2) If this bill and Assembly Bill 879 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53 of the Military and Veterans Code, but Assembly Bill 185 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 879, the amendments proposed by both bills shall be given effect and incorporated in Section 987.53 in the form set forth in Section 8.4 of this act Therefore, if this bill and Assembly Bill 879 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53, this bill is chaptered after Assembly Bill 879, and Assembly Bill 185 is not chaptered or as chaptered does not amend that section, Section 8.4 shall be operative and Sections 8, 8 2, and 8.6 of this act shall not become operative.

(3) If this bill and Assembly Bill 185 and Assembly Bill 879 are all chaptered and become effective January 1, 1980, all three bills amend Section 987 53 of the Military and Veterans Code, and this bill is chaptered after Assembly Bill 185 and Assembly Bill 879, the amendments proposed by all three bills shall be given effect and incorporated in Section 987 53 in the form set forth in Section 8.6 of this act. Therefore, if this bill and Assembly Bill 185 and Assembly Bill 879 are all chaptered and become effective January 1, 1980, all three bills amend Section 987.53 of the Military and Veterans Code, and this bill is chaptered after Assembly Bill 185 and Assembly Bill 879, Section 8.6 of this act shall be operative and Sections 8, 8 2, and 8 4 of this act shall not become operative.

CHAPTER 642

An act to amend Section 23095 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 23095 of the Business and Professions Code is amended to read:

23095 (a) Whenever a decision of the department suspending a license for 30 days or less becomes final, whether by failure of the licensee to appeal the decision or by exhaustion of all appeals and judicial review, the licensee may, before the operative date of such suspension, petition the department for permission to make an offer

in compromise, to be paid into the Alcohol Beverage Control Fund, consisting of a sum of money in lieu of serving such suspension Upon the receipt of such a petition, the department may stay the proposed suspension and cause such investigation to be made as it deems desirable and may grant such petition if it is satisfied (a) that the public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the sum of money will achieve the desired disciplinary purposes; (b) that the books and records of the licensee are kept in such a manner that the loss of sales of alcoholic beverages which the licensee would have suffered had such suspension gone into effect can be determined with reasonable accuracy therefrom Such offer in compromise shall be the equivalent of 20 percent of the estimated gross sales of alcoholic beverages for each day of such proposed suspension, and such offer in compromise shall be not less than two hundred fifty dollars ($250) nor more than two thousand dollars ($2,000).

(b) Notwithstanding any other provision of this division, the department may accept an offer in compromise from a retail licensee in the equivalent of 20 percent of the estimated gross sales of alcoholic beverages for each day of a proposed suspension and such offer in compromise shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500) providing the petitioning retailer has had no other accusation filed against him by the department during the prior three years from the date of such petition which has resulted in a final decision to suspend or revoke the retail license concerned

This subdivision does not affect the provisions of Section 24755 1.

(c) Notwithstanding the provisions of subdivision (a), the offer in compromise for nonretail licensees shall be the equivalent of 20 percent of the estimated gross sales of alcoholic beverages for each day of the proposed suspension, and such offer in compromise shall not exceed ten thousand dollars ($10,000) unless the nonretail licensee has violated Section 25500, 25502, 25503, or 25600 by giving to any licensee illegal inducements, secret rebates, or free goods amounting to more than ten thousand dollars ($10,000) in value, in which case the offer in compromise shall be equal to the value of the illegal inducements, secret rebates, or free goods given. All moneys collected as a result of penalties imposed under this subdivision shall be deposited directly in the General Fund in the State Treasury, rather than the Alcoholic Beverage Control Fund as provided for in Section 25761

CHAPTER 643

An act to amend Section 4507 of the Business and Professions Code, relating to licensed professionals.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 4507 of the Business and Professions Code is amended to read:

4507 This chapter shall not apply to the following:

(a) Physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2.

(b) Psychologists licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2.

(c) Registered nurses licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2.

(d) Vocational nurses licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2.

(e) Social workers or clinical social workers licensed pursuant to Chapter 17 (commencing with Section 9000) of Division 3

(f) Marriage, family, and child counselors licensed pursuant to Chapter 4 (commencing with Section 17800) of Division 7.

(g) Teachers credentialed pursuant to Chapter 1.5 (commencing with Section 13101) of Division 10 of the Education Code.

(h) Occupational therapists as specified in Chapter 5.6 (commencing with Section 2570) of Division 2.

(i) Art therapists, dance therapists, music therapists, and recreation therapists, as defined in Division 5 (commencing with Section 70001) of Title 22 of the California Administrative Code on the effective date of the amendment made to this section at the 1979-80 Regular Session, who are personnel of health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(j) Such other categories of persons as the board determines are entitled to exemption from this chapter because they have complied with other licensing provisions of this code or because they are deemed by statute or by regulations contained in the California Administrative Code to be adequately trained in their respective occupations Such exemptions shall apply only to a given specialized area of training within the specific discipline for which the exemption is granted

CHAPTER 644

An act to amend Section 2428.5 of the Business and Professions Code, and to amend Section 471.5 of the Penal Code, relating to medical records

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 2428.5 of the Business and Professions Code is amended to read.

2428.5 Any person, holding a physician's and surgeon's certificate or certificate to practice podiatry under this chapter, who alters or modifies the medical record of any person, with fraudulent intent, or who, with fraudulent intent, creates any false medical record, is guilty of a misdemeanor.

Violation of this section shall constitute grounds for disciplinary action by the Division of Medical Quality, or the Division of Allied Health Professions, and in addition to any other disciplinary action the division may impose a civil penalty of five hundred dollars ($500).

SEC 2 Section 471.5 of the Penal Code is amended to read·

471 5 Any person who alters or modifies the medical record of any person, with fraudulent intent, or who, with fraudulent intent, creates any false medical record, is guilty of a misdemeanor.

SEC. 3 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 645

An act to repeal Article 4 (commencing with Section 28330) of Chapter 7 of Division 22 of the Health and Safety Code, relating to walnuts

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

The people of the State of California do enact as follows

SECTION 1. Article 4 (commencing with Section 28330) of Chapter 7 of Division 22 of the Health and Safety Code is repealed.

CHAPTER 646

An act to add and repeal Article 1.5 (commencing with Section 4678) of Chapter 10 of Part 2 of Division 4 of the Public Resources Code, relating to forest and vegetative cover.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Article 1.5 (commencing with Section 4678) is added to Chapter 10 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 1 5. Revegetation Pilot Projects for Fuel Management and Other Purposes

4678. The purpose of this article is to provide the authorization necessary for the department to undertake a pilot program of vegetation management on emergency revegetation projects or portions of such projects undertaken pursuant to Section 4675.

4678 1. The Legislature hereby finds and declares that vegetation management following emergency revegetation projects is necessary for the long-term benefit of the public interest in the following areas:

(a) Reduced fire hazard and fuels accumulation.
(b) Increased water yields.
(c) Enhanced water quality.
(d) Enhanced wildlife habitat
(e) Reduced soil loss
(f) Reduced downstream siltation and damage to fisheries.
(g) Reduced revenue losses resulting from property damage and lost tax revenue
(h) Increased food production through livestock forage enhancement

4678.2. Pursuant to the provision of this article, the department may undertake four pilot projects in four different areas of the state with different soils and vegetation types. Such projects undertaken shall commence subsequent to suppression of major wildland fires of 500 acres or more, which require emergency revegetation, and shall continue for a period no less than five years in duration. The pilot projects should be done at the earliest feasible opportunity for demonstrating the values of vegetation management following emergency revegetation projects

4678 3. The director may use necessary resources to carry out the requirements of the pilot program. Following inspection by departmental personnel, the scientific preparations for a program of vegetation management may be undertaken. Such inspection shall include plats of proposed project site, soil types, revegetative data, and other such scientific data as deemed necessary by the director and his assistants to carry out a long-term program of vegetation management. For the purposes set forth in Section 4678.1, departmental personnel shall determine the feasibility, size, and location of such test vegetation management areas within emergency revegetation projects based on all of the following:

(a) Strategic location for future fire control operations should wildfire occur.

(b) Suitability of soils.

(c) Slope and aspect

(d) Willingness of private landowners or other state or federal agencies to cooperate

(e) Availability of departmental personnel and funds.

4678.4. The department may enter into cooperative agreements as necessary with private landowners or other state or federal agencies for the facilitation of such pilot projects. Under the terms of the cooperative agreement, private landowners and the federal government may agree to practice grazing management and to contribute to the cost of these projects.

4678 5. The department shall report annually to the Legislature on the results of any such pilot projects undertaken pursuant to this article.

4678.6. The department shall submit a final report to the Legislature by September 1, 1989, on the results of the revegetation program and the value of such program for prolonged maintenance of the benefits identified in Section 4678.1.

4678.7 This article shall remain in effect only until January 1, 1991, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends such date

---

CHAPTER 647

An act to amend Section 12463.1 of the Government Code, relating to local government.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 12463.1 of the Government Code is amended to read:

12463 1. The Controller shall appoint an advisory committee consisting of seven local governmental officers to assist him in developing complete and adequate records

Whenever, in the opinion of the advisory committee and the Controller, the public welfare demands that the reports of the financial transactions of a district other than a school district be published, the Controller shall notify the district that reports of its financial transactions are required to be furnished to him pursuant to Article 9 (commencing with Section 53890), Chapter 4, Part 1, Division 2 of Title 5 A public entity, agency, board, transportation planning agency designated by the Secretary of the Business and Transportation Agency pursuant to Section 29532, or commission provided for by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500), Division 7, Title 1 or a redevelopment agency as provided for by Division 24 (commencing with Section 33000) of the Health and Safety Code, if it has issued bonds the principal and interest of which are payable from taxes allocated to and paid into a special fund of the agency under authority of Section 33641 of the Health and Safety Code, and a nonprofit corporation as defined herein, shall be deemed a district within the meaning of this section The Controller shall compile and publish such reports pursuant to Section 12463

For purposes of this section, "nonprofit corporation" shall mean any nonprofit corporation (1) formed in accordance with the provisions of a joint powers agreement to carry out functions specified in such agreement; or, (2) that issued bonds, the interest on which is exempt from federal income taxes, for the purpose of purchasing land as a site for, or purchasing or constructing, a building, stadium, or other facility, which is subject to a lease or agreement with a local public entity; or, (3) wholly owned by a public agency

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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 It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

CHAPTER 648

An act to amend Section 53652 of the Government Code, relating to investment of local agency funds.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 53652 of the Government Code is amended to read:

53652. To secure active or inactive deposits the depository shall at all times maintain with the agent of depository pursuant to Sections 53656 and 53658 securities having a market value of at least 10 percent in excess of the total amount of all deposits of that depository secured by the pooled securities referred to in said sections. Uncollected funds shall be excluded from the amount deposited with the depository when determining the security requirements for such deposits.

CHAPTER 649

An act to amend Sections 41102, 41103, and 41103.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1. Section 41102 of the Vehicle Code is amended to read

41102. (a) In any prosecution against the registered owner of a motor vehicle charging a violation of any regulation governing the standing or parking of a vehicle under this code, any federal statute or regulation, or any ordinance enacted by local authorities, proof that the particular vehicle described in the complaint was parked in violation of any provision of this code, any federal statute or regulation, or such ordinance, together with proof that the defendant named in the complaint was at the time of parking the registered owner of the vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred, but for the purposes of this subdivision proof that a person is the registered owner of a vehicle is not prima facie evidence that the registered owner has violated any other provision of law. Proof of a written lease of, or rental agreement for,

a particular vehicle described in the complaint, on the date and time of such violation, which lease or rental agreement includes the name and address of the person to whom the vehicle is leased or rented, a copy of which was delivered to the court giving the notice required in paragraph (2) of Section 41103 within 30 days after date of giving of such notice, shall rebut the prima facie evidence that the registered owner was the person who parked or placed the vehicle at the time and place where the violation occurred. The above provisions shall apply only when the procedure required by Section 41103 is complied with

(b) In any prosecution against the lessee or renter of a motor vehicle charging a violation of any regulation governing the standing or parking of a vehicle under this code, any federal statute or regulation, or any ordinance enacted by local authorities, proof that the particular vehicle described in the complaint was parked in violation of any provision of this code, any federal statute or regulation, or such ordinance, together with proof that the defendant named in the complaint was at the time of parking the lessee or renter of the vehicle, shall constitute prima facie evidence that the lessee or renter of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred, but for the purposes of this subdivision, proof that a person is the lessee or renter of a vehicle is not prima facie evidence that the lessee or renter has violated any other provision of law

(c) In any prosecution charging a violation of any provision of this code requiring the display of any evidence of registration, with respect to an unattended vehicle, proof that the particular vehicle described in the complaint failed to properly display such evidence of registration, together with proof that the defendant named in the complaint was at the time the registered owner of the vehicle, shall constitute prima facie evidence that the registered owner of the vehicle was responsible for the vehicle at the time the violation occurred No other prima facie evidence shall be created by this subdivision The above provisions shall apply only when the procedure required by Section 41103 is complied with

(d) Any charge under this section shall be dismissed when the person charged has made a bona fide sale or transfer of the vehicle and has delivered possession thereof to the purchaser and has complied with the requirements of subdivision (a) or (b) of Section 5602 prior to the date of the alleged violation and has advised the court of the name and address of the purchaser, and of the date of sale

SEC 2 Section 41103 of the Vehicle Code is amended to read

41103 The method of giving notice for the purposes of the provisions of Section 41102 is as follows

(1) During the time of the violation a notice thereof shall be securely attached to the vehicle setting forth the violation, including reference to the section of this code or of such local ordinance or

federal statute or regulation so violated, the approximate time thereof, and the location where such violation occurred and fixing a time and place for appearance by the registered owner or the lessee or renter in answer to such notice

Such notice shall be attached to such vehicle either on the steering post or front door handle thereof or in such other conspicuous place upon the vehicle as to be easily observed by the person in charge of such vehicle upon his return thereto

(2) Before any notice of noncompliance may be forwarded to the department under Section 41103 5 or any warrant for the arrest of a resident of this state may be issued following the filing of a complaint charging such a violation, a notice of the violation shall be given to the person so charged Such notice shall contain the information required in paragraph (1) and shall also inform such registered owner or the lessee or renter that unless he appears in the court designated in such notice within 10 days after service of such notice and answers such charge, or completes and files an affidavit of nonownership, the renewal of his registration is contingent upon his compliance with the notice of violation and that, failing such compliance, a warrant or citation to appear may be issued against him

Such notice shall contain or be accompanied by an affidavit of nonownership In addition to any other required information, such notice shall also provide information as to what constitutes nonownership, information as to the effect of executing such affidavit, and instructions for mailing or returning the affidavit to the court Upon receipt of evidence satisfactory to the court that the person charged with violating Section 41102 has made a bona fide sale or transfer of the vehicle and has delivered possession thereof to the purchaser prior to the date of the alleged violation, the court shall obtain verification from the department that the person charged has complied with the requirements of subdivision (a) or (b) of Section 5602, and, if the person has complied with subdivision (a) or (b) of Section 5602, the charges against the person under Section 41102 shall be dismissed

Such notice shall be given, either by personal delivery thereof to such owner, lessee or renter, or by deposit in the United States mail of an envelope with postage prepaid, which envelope shall contain such notice and shall be addressed to such owner, lessee or renter at his address as shown by the records of the department or the leasing or renting agency The giving of notice by personal delivery is complete upon delivery of a copy of such notice to such person The giving of notice by mail is complete upon the expiration of 10 days after the deposit of such notice

Proof of giving such notice may be made by the certificate of any traffic or police officer or affidavit of any person over 18 years of age naming the person to whom such notice was given and specifying the time, place and manner of the giving thereof

(3) Before any warrant for the arrest of a nonresident of this state

may be issued following the filing of a complaint charging such a violation, a notice of the violation shall be given to the person so charged. Such notice shall contain the information required in paragraph (1) and shall also inform such registered owner or the lessee or renter that unless he appears in the court to be designated in such notice within 10 days after service of such notice and answers such charge, or completes and files an affidavit of nonownership, a warrant or citation to appear will be issued against him.

SEC. 3 Section 41103 5 of the Vehicle Code is amended to read·

41103 5 (a) Whenever any person has for a period of 15 or more days failed to comply with the provisions of paragraph (2) of Section 41103, the magistrate or clerk of the court shall give notice of such fact to the department if no warrant of arrest is outstanding in connection with the matter. Such notice shall be given not more than 30 days after such failure to appear Whenever thereafter the case, in which the notice of violation was given pursuant to paragraph (2) of Section 41103, is adjudicated, the magistrate or clerk of the court hearing the case shall immediately sign and file with the department a certificate to that effect.

(b) Whenever a fine or forfeiture is received in connection with a matter for which a notice of noncompliance has been forwarded under this section, the clerk of the court, or judge if there is no clerk, shall determine the amount of the administrative service fee due as established by the department under Section 4763, and shall transmit such amount to the county treasury. The county treasurer shall, at least once each month, transmit the fees collected pursuant to this section to the State Treasury for deposit in the Motor Vehicle Account in the State Transportation Fund. The funds shall be transmitted in the same manner as fines collected for the state by the county In any case involving federal jurisdictions, such fees shall be transmitted monthly to the Department of Motor Vehicles for deposit in the Motor Vehicle Account in the State Transportation Fund

(c) The procedure for the collection of bail authorized by this section and the provisions of Sections 4760 to 4765, inclusive, shall apply to any registration or equipment infraction charged simultaneously with any parking violation in any notice of violation issued to an unattended vehicle under paragraph (1) of Section 41103.

CHAPTER 650

An act to amend Sections 43648, 43650, and 43652 of, and to repeal Sections 43648 1 and 43649 of, the Government Code, relating to cities

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

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

SECTION 1 Section 43648 of the Government Code is amended to read

43648 City, as used in this article, means any city or city and county, including a chartered city

SEC 2 Section 43648.1 of the Government Code is repealed.

SEC 3 Section 43649 of the Government Code is repealed

SEC 4 Section 43650 of the Government Code is amended to read

43650 Limited obligation bonds are bonds which are to be paid solely from sales and use taxes imposed and to be imposed and collected by the city, herein called revenues. Such bonds shall not be payable from ad valorem taxes on real property, except in the event of default, in which case the principal and interest on such bonds may, at the discretion of the governing body of the city, be paid from any legally available funds

SEC 5 Section 43652 of the Government Code is amended to read

43652 Such bonds shall be authorized and issued in the manner provided in the applicable provisions of Article 1 (commencing with Section 43600) of this chapter, as now or hereafter provided, excepting Sections 43605, 43619, 43620, 43632, 43633, and 43634 thereof

---

CHAPTER 651

An act to amend Sections 2862, 2881, 2882, and 2892.5 of the Business and Professions Code, relating to vocational nurses

[Approved by Governor September 13, 1979 Filed with Secretary of State September 13, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 2862 of the Business and Professions Code is amended to read

2862 Vocational nursing services may be rendered by a student enrolled in an accredited school of vocational nursing when these services are incidental to his or her course of study

SEC 2 Section 2881 of the Business and Professions Code is amended to read

2881 An accredited school of vocational nursing is one which has been approved by the Board of Vocational Nurse and Psychiatric Technician Examiners, gives a course of instruction in vocational nursing of not less than 1530 hours approved by the board pursuant

to Section 2882 whether the same be established by the State Board of Education, other educational institutions, or other public or private agencies or institutions and is affiliated or conducted in connection with one or more hospitals.

SEC. 3. 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.

The board shall, by regulation, provide for the approval of courses of instruction expressed in hours of instruction, or academic units, or which require satisfactory demonstration of skills and behavioral competencies.

SEC. 4. Section 2892.5 of the Business and Professions Code is amended to read·

2892 5. (a) Each person renewing his or her license under the provisions of this chapter shall submit proof satisfactory to the board that, during the preceding two-year period, he or she has informed himself or herself of developments in the vocational nurse field or in any special area of vocational nurse practice, occurring since the issuance of his or her 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 the first license renewal following the initial issuance of a license

(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

CHAPTER 652

An act to repeal and add Section 1942.5 of the Civil Code, relating to landlord and tenant

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1 Section 1942.5 of the Civil Code is repealed.

SEC 2 Section 1942 5 is added to the Civil Code, to read:

1942 5 (a) If the lessor retaliates against the lessee because of the exercise by the lessee of his rights under this chapter or because of his complaint to an appropriate agency as to tenantability of a dwelling, and if the lessee of a dwelling is not in default as to the payment of his rent, the lessor may not recover possession of a dwelling in any action or proceeding, cause the lessee to quit involuntarily, increase the rent, or decrease any services within 180 days:

(1) After the date upon which the lessee, in good faith, has given notice pursuant to Section 1942, or has made an oral complaint to the lessor regarding tenantability, or

(2) After the date upon which the lessee, in good faith, has filed a written complaint, or an oral complaint which is registered or otherwise recorded in writing, with an appropriate agency, of which the lessor has notice, for the purpose of obtaining correction of a condition relating to tenantability; or

(3) After the date of an inspection or issuance of a citation, resulting from a complaint described in paragraph (2) of which the lessor did not have notice; or

(4) After the filing of appropriate documents commencing a judicial or arbitration proceeding involving the issue of tenantability, or

(5) After entry of judgment or the signing of an arbitration award, if any, when in the judicial proceeding or arbitration the issue of tenantability is determined adversely to the lessor

In each instance, the 180-day period shall run from the latest applicable date referred to in paragraphs (1) to (5), inclusive

(b) A lessee may not invoke the provisions of subdivision (a) more than once in any 12-month period

(c) It shall be unlawful for a lessor to increase rent, decrease services, cause a lessee to quit involuntarily, bring an action to recover possession, or threaten to do any of such acts, for the purpose of retaliating against the lessee because he or she has lawfully organized or participated in a lessees' association or an organization advocating lessees' rights or has lawfully and peaceably exercised any rights under the law In an action brought by or against the lessee pursuant to this subdivision, the lessee shall bear the burden of

producing evidence that the lessor's conduct was, in fact, retaliatory

(d) Nothing in this section shall be construed as limiting in any way the exercise by the lessor of his rights under any lease or agreement or any law pertaining to the hiring of property or his right to do any of the acts described in subdivision (a) or (c) for any lawful cause Any waiver by a lessee of his rights under this section shall be void as contrary to public policy.

(e) Notwithstanding the provisions of subdivisions (a) to (d), inclusive, a lessor may recover possession of a dwelling and do any of the other acts described in subdivision (a) within the period or periods prescribed therein, or within subdivision (c), if the notice of termination, rent increase, or other act, and any pleading or statement of issues in an arbitration, if any, states the ground upon which the lessor, in good faith, seeks to recover possession, increase rent, or do any of the other acts described in subdivision (a) or (c). If such statement be controverted, the lessor shall establish its truth at the trial or other hearing

(f) Any lessor or agent of a lessor who violates this section shall be liable to the lessee in a civil action for all of the following·

(1) The actual damages sustained by the lessee

(2) Punitive damages in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to such act

(g) In any action brought for damages for retaliatory eviction, the court shall award reasonable attorney's fees to the prevailing party if either party requests attorney's fees upon the initiation of the action

(h) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law

---

CHAPTER 653

An act to amend Sections 651, 651 3, 1320, 1680, 2556, 3129, 4333, and 17500 1 of, and to repeal Sections 651 2, 651 4, and 2525 23 of, the Business and Professions Code, and to repeal Section 159a of the Penal Code, relating to professional advertising

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

The people of the State of California do enact as follows

SECTION 1 This act shall be known and may be cited as the Right to Compete Act of 1979

SEC 2 Section 651 of the Business and Professions Code is amended to read

651 (a) It is unlawful for any person licensed under this division

or under any initiative act referred to in this division to disseminate or cause to be disseminated, any form of public communication containing a false, fraudulent, misleading, or deceptive statement or claim, for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of television, radio, motion picture, newspaper, book, or list or directory of healing arts practitioners.

(b) A false, fraudulent, misleading, or deceptive statement or claim includes a statement or claim which does any of the following

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts

(3) Is intended or is likely to create false or unjustified expectations of favorable results.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived

(c) Any price advertisement shall be exact, without the use of such phrases as "as low as," "and up," "lowest prices" or words or phrases of similar import. Any advertisement which refers to services, or costs for such services, and which uses words of comparison must be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of such comparison Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in such publicity

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b)

(f) Any person so licensed who violates any provision of this section is guilty of a misdemeanor A bona fide mistake of fact shall be a defense to this subdivision

(g) Any violation of any provision of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action

(h) Advertising by any person so licensed may include only the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner

(3) A statement of office hours regularly maintained by the practitioner

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office

(5) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his practice to specific fields However, any practitioner licensed under Chapter 4 (commencing with Section 1600) of this division, who limits his practice to a specific field or fields, may only include a statement that he is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received

(8) A statement of publications authored by the practitioner

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner

(12) A statement that the practitioner regularly accepts installment payments of fees

(13) Otherwise lawful images of a practitioner, his physical facilities, or of a commodity to be advertised, but not of persons or parts of persons or facsimiles thereof for the purpose of demonstrating a medical or dental condition, injury, disease, including obesity, or recovery or relief therefrom.

(14) Notwithstanding paragraph (13), eyeglasses, contact lenses, hearing aids, dentures, and orthopedic devices may be advertised on the person

(15) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised

(16) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (15), inclusive, provided, that any such statement shall not violate

the provisions of subdivisions (a), (b), (c), or (e) of this section or the provisions of any other section of this code.

(17) A statement, or statements, providing public health information encouraging preventative or corrective care.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce the provisions of this section. Such regulations shall be adopted on or before March 31, 1980. Sixty days prior to the adoption of such regulations the respective healing arts boards and committees shall refer proposed regulations along with a summary containing a concise and clear explanation of the nature, purpose and effect, of the proposed regulations to the Speaker of the Assembly and the Rules Committee of the Senate pursuant to Section 1138 of the Government Code. However, this shall not interfere with the power of the boards or the department to adopt, amend, or repeal regulations.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by business or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for such service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise such service. Such boards and committees shall adopt or modify regulations defining which services may be advertised, the manner in which defined services may be advertised, and restricting advertising which would promote the inappropriate or excessive use of health services or commodities A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements However, any member of a board or committee acting in good faith in the adoption or enforcement of such regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce the provisions of this section. Notwithstanding any other provision of law, the Attorney General shall not charge the costs of enforcing this section to the respective licensing boards or committees. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

SEC 3 Section 651 2 of the Business and Professions Code is repealed

SEC 4 Section 651 3 of the Business and Professions Code is amended to read

651 3 (a) Any labor organization, bona fide employee group or bona fide employee association having contracted health care services from a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Section 1340 of the Health and Safety Code) may inform its members as to the benefits available and the charges therefor

(b) Before any new or revised written advertising or solicitation, or any form of evidence of coverage, is adopted by a health care service plan under the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Section 1340 of the Health and Safety Code) for distribution to members pursuant to subdivision (a), the proposed new or revised advertising or solicitation or evidence of coverage shall be submitted to the Department of Corporations which shall, within 30 days, prohibit its use if it is determined that the advertising or solicitation or evidence of coverage as proposed is untrue or misleading or deceptive as determined pursuant to the definitions contained in Section 1345 of the Health and Safety Code The Department of Corporations shall notify the plan or its representatives of such determination

(c) Any labor organization, bona fide employee group or bona fide employee association, contracting for a health care service plan under this section, shall not derive any profit from such plan

Nothing contained in this section shall be construed as authorizing a provider of medical assistance, including a prepaid health plan, under the Medi-Cal Act or the Waxman-Duffy Prepaid Health Plan Act to advertise in violation of any of the provisions of such acts and regulations developed thereto

SEC 5 Section 651 4 of the Business and Professions Code is repealed

SEC 6 Section 1320 of the Business and Professions Code is amended to read

1320. Licenses issued by the department may be denied, revoked or suspended for any of the following reasons

(a) Conduct involving moral turpitude or dishonest reporting of tests

(b) Violation of any of the regulations of the department adopted pursuant to this chapter.

(c) Permitting a licensed trainee to perform tests or procure specimens unless under the direct and responsible supervision of a person duly licensed under this chapter or physician and surgeon other than another licensed trainee

(d) Violation of any provision of the Business and Professions Code governing the practice of medicine and surgery

(e) Proof that the holder has made false statements in material regard on his application for licensure or that he has used any degree or certificate as a means of qualifying for licensure which has been purchased or procured by barter or by any unlawful means or obtained from any institution which at the time said degree or certificate was obtained was not recognized or accredited by the

department of education of the state where said institution is or was located to give training in the field of study in which the degree or certificate is claimed

(f) The use of any degree, certificate, or title in any manner, which has been purchased or procured by barter or by any unlawful means or obtained from any institution which at the time said degree, certificate, or title was obtained was not recognized or accredited by the department of education of the state where said institution is or was located to give training in the field of study in which the degree, certificate, or title is claimed.

(g) Violation of any of the provisions of the premarital or prenatal laws or regulations pertaining thereto in Article 3 (commencing with Section 4300), Chapter 2, Title 1, Part 5, Division 4 of the Civil Code and in Article 1 (commencing with Section 1125), Group 4, Subchapter 1, Chapter 2, Part 1, Title 17 of the California Administrative Code, or of the provisions of Article 2 (commencing with Section 3220), Chapter 4, Division 4 of the Health and Safety Code

(h) Knowingly accepting an assignment for clinical laboratory tests or specimens from and the rendering a report thereon to persons not authorized by law to submit such specimens or assignments.

(i) Rendering a report on clinical laboratory work actually performed in another clinical laboratory without designating clearly the name of the laboratory in which the test was performed.

(j) Conviction of a felony or of any misdemeanor involving moral turpitude under the laws of any state or of the United States arising out of or in connection with the practice of clinical laboratory technology The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(k) Violation of any of the provisions of this chapter

(*l*) Unprofessional conduct.

(m) The use of drugs or alcoholic beverages to the extent or in such manner as to be dangerous to a person licensed under this chapter, or any other person to the extent that such use impairs the ability of the licensee to conduct with safety to the public the practice of clinical laboratory technology

SEC 7 Section 1680 of the Business and Professions Code is amended to read

1680 Unprofessional conduct is defined to be any one of the following:

(a) The employment of persons known as cappers or steerers, to obtain business

(b) The obtaining of any fee by fraud or misrepresentation

(c) The willful betrayal of professional secrets

(d) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter

(e) The aiding or abetting of any unlicensed person to practice

dentistry.

(f) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(g) Habitual intemperance

(h) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except such name as is specified in a valid permit issued pursuant to Section 1701.5.

(i) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients

(j) The making use of any advertising statements of a character tending to deceive or mislead the public.

(k) The advertising of professional superiority or the performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651

(*l*) The employing or the making use of solicitors.

(m) The advertising of any free dental work, or free examination.

(n) The advertising to guarantee any dental service, or to perform any dental operation painlessly This subdivision shall not prohibit advertising permitted by Section 651.

(o) The willful violation of any of the provisions of law regulating the dispensing and administration of dangerous drugs or narcotics, or the willful violation of any of the provisions of this chapter except the payment of fees

(p) The failure to certify, or the false certification, to the board on or after January 1, 1972, that he or she or any person employed by the licentiate, who operates dental radiographic equipment, has passed an examination in radiation safety conducted by the board, or the equivalent of such examination as required by Section 1656, or the permitting of any person employed by him or her to operate dental radiographic equipment who has not passed an examination or the equivalent of such examination in radiation safety as required by Section 1656.

SEC 8 Section 2525.23 of the Business and Professions Code is repealed.

SEC. 9. Section 2556 of the Business and Professions Code is amended to read

2556. It is unlawful to do any of the following. to advertise the furnishing of, or to furnish, the services of a refractionist, an optometrist, or a physician and surgeon; to directly or indirectly employ or maintain on or near the premises used for optical dispensing, a refractionist, an optometrist, a physician and surgeon, or a practitioner of any other profession for the purpose of any examination or treatment of the eyes, or to duplicate or change lenses without a prescription or order from a person duly licensed to

issue the same.

SEC. 10. Section 3129 of the Business and Professions Code is amended to read:

3129. It is unlawful to advertise as being free or without cost the examination or treatment of the eyes or the furnishing of optometrical services.

SEC. 11. Section 4333 of the Business and Professions Code is amended to read:

4333. (a) Notwithstanding Section 651, an advertisement of the retail price for a drug which requires a prescription shall be limited to quantities of the drug which are consistent with good medical practice and shall include the strength, dosage form, and the exact dates during which the advertised price will be in effect.

(b) In every pharmacy there shall be prominently posted in a place conspicuous to and readable by prescription drug consumers a notice provided by the board concerning the availability of prescription price information, the possibility of generic drug product selection, and the type of services provided by pharmacies The format and wording of the notice shall be adopted by the board in accordance with the rulemaking provisions of the Administrative Procedure Act.

(c) A pharmacist, or his employee, upon request, however communicated to him, shall give the current retail price for any drug sold at the pharmacy.

(d) This section shall not apply to a pharmacy, located in a licensed hospital, which is accessible only to hospital medical staff and personnel

SEC. 12. Section 17500.1 of the Business and Professions Code is amended to read.

17500.1. Notwithstanding any other provision of law, no trade or professional association, or state agency, state board, or state commission within the Department of Consumer Affairs shall enact any rule, regulation, or code of professional ethics which shall restrict or prohibit advertising by any commercial or professional person, firm, partnership or corporation which does not violate the provisions of Section 17500 of the Business and Professions Code, or which is not prohibited by other provisions of law

The provisions of this section shall not apply to any rules or regulations heretofore or hereafter formulated pursuant to Section 6076.

SEC. 13. Section 159a of the Penal Code is repealed

SEC. 14. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 15 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 654

An act to add Chapter 2 (commencing with Section 15365) to Part 6 7 of Division 3 of Title 2 of the Government Code, relating to licensing of business

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

The people of the State of California do enact as follows

SECTION 1 Chapter 2 (commencing with Section 15365) is added to Part 6 7 of Division 3 of Title 2 of the Government Code, to read

CHAPTER 2 BUSINESS LICENSE INFORMATION

15365. This chapter shall be known and may be cited as the Business License Information Act of 1979

15366 It is the intent of the Legislature that the informational functions to be provided by state agencies under this chapter shall be accomplished by existing employees in the agencies who already handle inquiries relating to license or permit requirements of the particular agency and should not necessitate additional budgeted positions The provisions of this chapter will allow agencies to more effectively and efficiently carry out duties and services to the public that they are or should currently be performing

15367. The Department of Economic and Business Development shall compile a comprehensive listing of all state licenses, permits, and registrations required of any person desiring to operate a business enterprise in California, except permits for a development project as defined in Section 65928 of the Government Code

The department shall categorize the required permits, licenses, and registrations into a comprehensive handbook that is readily available to persons interested in establishing a business enterprise

The handbook shall be as comprehensive as is practical and effective in order to provide a broad service to California citizens seeking to create or operate an enterprise which must comply with the wide range of California license, permit, and registration requirements, except in regard to permits for development projects as provided in Section 15367 To the extent possible, the handbook shall indicate state licenses, permits, or registrations required of a

person interested in establishing an enterprise according to the type of enterprise

The following information shall be indicated regarding each agency appearing in the handbook: the name of the agency; the address to which license, permit, or registration materials should be sent; and the phone number of the agency

The handbook provided for in this section shall be completed by the department and in use no later than July 1, 1980, and shall be updated by the department to assure that the information provided reflects current requirements. The department shall make the handbook available to public libraries, educational institutions, and the state and local agencies listed in the handbook.

The department shall adopt the format for the handbook that it deems most appropriate to comply with the provisions of this chapter.

The department shall charge a fee to cover the actual costs of publication and distribution of the handbook.

15371. Each state agency appearing in the handbook shall notify the department within five days of a change in any of the information specified in the handbook.

15372 All state agencies shall cooperate with the Department of Economic and Business Development in the compilation of license, permit, and registration requirements, and shall respond to requests by the department for information in a timely manner.

15373 The failure to satisfy a permit, license, or registration requirement shall not be excused for reason that such requirement does not appear on a handbook.

CHAPTER 655

An act to amend Section 10133 1 of, and to add Chapter 4 (commencing with Section 11700) to Part 2 of Division 4 of, the Business and Professions Code, and to amend Section 2924c of the Civil Code, relating to real property subject to foreclosure, declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1 The Legislature hereby finds and declares that

(a) The Legislature reaffirms its commitment to the protection and conservation of large equities now accumulated by California homeowners as expressed in Section 50007 of the Health and Safety Code, and further reaffirms its commitment to the national housing goal of a decent home and suitable living environment for every California family as expressed in Section 50002 of the Health and

Safety Code.

The Legislature further reaffirms its finding that the subject of housing is of vital statewide importance to the health, safety, and welfare of the residents of California as expressed in Section 50001 of the Health and Safety Code.

(b) The recent inflation of real property values in most urban areas of the state has resulted in an increase in the value of the equity of homes, of which many homeowners, particularly the poor and the elderly, are unaware.

(c) Many homeowners in this state are unaware of the legal rights and options available to them once foreclosure proceedings have been initiated against their homes. The present foreclosure process fails to provide sufficient meaningful information to homeowners to enable them to avoid foreclosure or save the equity in their homes

(d) Many homeowners in this state who possess substantial equities in homes subject to foreclosure have sold their homes to buyers for little or no money. Many of these buyers have made unconscionable profits by taking advantage of the homeowners financial plight and lack of knowledge regarding the legal rights and options available to them.

(e) Other homeowners in this state have been approached when their homes are subject to foreclosure by persons purporting to be expert in providing assistance to homeowners with respect to foreclosure proceedings. These persons, instead of providing assistance, employ a variety of schemes and devices to deprive homeowners of their homes and the equity they have accumulated therein.

(f) As a result of these and other injurious practices, homeowners throughout this state are losing their homes and the substantial equities they have accumulated in those homes.

(g) It is the policy of the State of California to preserve home ownership. The loss of homes resulting from these practices contributes to the destabilization of neighborhoods and the destruction of the character of urban communities.

It is therefore the intent of the Legislature in enacting this act to prohibit unfair and unconscionable practices concerning residential real property in foreclosure. It is further the intent of the Legislature to increase the information provided to the homeowner with respect to foreclosure proceedings and to strengthen the remedies available to homeowners victimized by these practices

SEC 2 Chapter 4 (commencing with Section 11700) is added to Part 2 of Division 4 of the Business and Professions Code, to read:

CHAPTER 4 RESIDENTIAL REAL PROPERTY IN FORECLOSURE

11700 (a) As used in this chapter, the following terms have the following meanings:

(1) "Residential real property in foreclosure" means residential real property which is being sold (A) to enforce payment of a debt

secured by a mortgage, deed of trust, or other lien on the real property, (B) to enforce a judgment, or (C) to enforce payment of taxes

(2) "Acquisition, sale, exchange, or transfer" shall include, but is not limited to, any transaction involving a grant of real property which purports to be defeasible upon the performance of certain conditions by the grantor.

(b) This chapter shall not apply to the following transactions:

(1) The acquisition of property for use as the personal residence of the buyer.

(2) The acquisition of property to be used for commercial or non-residential purposes.

(3) The acquisition, sale, exchange, or transfer of property upon which there has been constructed, or which was acquired with the intent to construct thereon, more than two residential units.

(4) The sale of property conducted pursuant to a lawful exercise of a power of sale contained in a deed of trust or mortgage, or the transfer of property by deed to a beneficiary or mortgagee in lieu of such foreclosure.

(5) The acquisition of property pursuant to a sale or transfer as described in paragraph (4).

(6) Loans made or arranged by real estate licensees acting within the meaning of subdivision (d) of Section 10131 of the Business and Professions Code.

11701 It is unlawful for any person to initiate, enter into, negotiate, or consummate any transaction involving residential real property in foreclosure, as defined in Section 11700, if such person, by the terms of such transaction, takes unconscionable advantage of the property owner in foreclosure.

11702. (a) Any transaction involving residential real property in foreclosure, as defined in Section 11700, which is in violation of Section 11701 is voidable and may be rescinded at the option of any other party to the transaction.

(b) Such rescission shall be effected by written notice directed to the other parties to the transaction and as provided for in Section 1691 of the Civil Code Such notice shall be given within three years of the date of such transaction and shall be entitled to be recorded with the county recorder of the county in which the real property is located. Upon delivery of the notice, the party holding record title or the successor in interest shall, within 20 days, reconvey title to the rescinding grantor free and clear of encumbrances created subsequent to the rescinded transaction. Upon failure to reconvey title within such time, the rescinding grantor may bring an action to enforce the rescission and for the cancellation of any deed pursuant to Section 1692 or 3412 of the Civil Code

(c) The provisions of this section shall not apply to any transfer of real property to a bona fide purchaser or encumbrancer for value if such transfer occurs prior to the recordation of the notice of rescission pursuant to subdivision (b).

(d) In any action brought to enforce a rescission pursuant to this section, the prevailing party shall be entitled to reasonable attorneys' fees

(e) The remedies provided by this section shall be in addition to any other remedies provided by statutory or decisional law.

SEC 3. Section 10133 1 of the Business and Professions Code is amended to read·

10133.1. The provisions of subdivision (d) of Section 10131, subdivision (e) of Section 10131, Section 10131.1, Articles 5 (commencing with Section 10230), 6 (commencing with Section 10237), and 7 (commencing with Section 10240) of this chapter and Chapter 4 (commencing with Section 11700) of Part 2 of this division do not apply to the following:

(a) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies

(b) Any lender making a loan guaranteed or insured by an agency of the federal government or for which a commitment to so guarantee or insure has been made by such agency.

(c) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 5401) of Division 20 of the Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(d) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(e) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(f) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when such person renders services in the course of his practice as an attorney at law, and the disbursements of such person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240) of this chapter, provided, such fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender

(g) Any person licensed as a personal property broker when acting under the authority of such license.

(h) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(i) Any person who makes collection of payments for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property, insofar as such activities are concerned, and (1) who is not actively engaged in the business of negotiating loans secured by real property or (2) who is not acting as a principal or agent in the sale or exchange of promissory notes secured directly or collaterally by liens on real property, provided that

(1) Such person has made application to the commissioner and has complied with all the provisions of Section 10133 25, or

(2) Such person makes such collections on 10 or less of such loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year

(j) Any person authorized in writing by a savings and loan association to act as an agent, as defined in Section 5053 of the Financial Code, of that savings and loan association, when acting under the authority of such written authorization

SEC 4. Section 2924c of the Civil Code is amended to read·

2924c (a) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees actually incurred not exceeding one hundred dollars ($100) in case of a mortgage and fifty dollars ($50) in case of a deed of trust or one-half of 1 percent of the entire unpaid principal sum secured, whichever is greater) other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such

acceleration had occurred. The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall contain the following statement in the first paragraph thereof, printed thereon in at least 14-point bold type or, if typed, in double spaced capital letters:

IMPORTANT NOTICE

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS TO

_____

(Name of beneficiary)

AND FOR NO OTHER REASON, YOU CAN TAKE YOUR PROPERTY OUT OF FORECLOSURE BY PAYING THE AMOUNT OWED PLUS PERMITTED FORECLOSURE FEES BY _____ .

(Date)

AS OF THE DATE OF THIS NOTICE YOU MUST PAY THE FOLLOWING TO TAKE YOUR PROPERTY OUT OF FORECLOSURE:

AMOUNT DUE ON LOAN _____

ALLOWABLE EXPENSES AND COSTS _____

TOTAL _____

THIS AMOUNT WILL CONTINUE TO INCREASE DAILY UNTIL PAYMENT IS RECEIVED BY THE BENEFICIARY.

IF YOU DO NOT PAY THE FULL AMOUNT OWED BY _____

(Date)

YOUR PROPERTY CAN BE SOLD TO SATISFY THE DEBT.

TO FIND OUT EXACTLY HOW MUCH YOU OWE AND TO ARRANGE FOR PAYMENT OF THIS AMOUNT SO AS TO TAKE YOUR PROPERTY OUT OF FORECLOSURE, CALL

_____

(Name of beneficiary)

AT _____

(Phone number)

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

SEC. 5. Section 4 of this act shall become operative on January 1, 1980.

SEC. 6. Notwithstanding Section 2231 or 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 the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities, which, in the aggregate, do not result in significant identifiable cost changes.

SEC 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 effect immediately. The facts constituting such necessity are·

An increasing number of homeowners whose homes are subject to foreclosure are losing their homes and the substantial equities they have accumulated in those homes as a result of ignorance on the part of the homeowners as to the legal rights and options available to them during foreclosure and as a result of the unscrupulous, unconscionable, and unregulated acts of various persons who engage in the business of acquiring, selling, exchanging, or transferring residential real property in foreclosure. To immediately protect the public from such undue hardship, it is necessary that this act go into immediate effect

---

CHAPTER 656

An act to add and repeal Section 22729 to the Education Code, and to add and repeal Section 20820 to the Government Code, relating to retirement

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1 Section 22729 is added to the Education Code, to read:

22729 Notwithstanding any other provisions of this part, when the Governor, upon the recommendation of the Board of Trustees of the California State University and Colleges, determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the state would be served, a member who is an employee of the California State University and Colleges, shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is credited with five or more years of service and retires during a period not to exceed 180 days or less than 90 days commencing no sooner than the date of issuance of the Governor's proclamation which shall specify such period.

(b) The board of trustees transmits to the Teachers' Retirement Fund an amount determined by the Teachers' Retirement Board

which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the Teachers' Retirement Board.

(c) The board of trustees shall certify that it is electing to exercise the provisions of this section pursuant to the Governor's determination because of impending mandatory transfers, demotions and layoffs, resulting from the curtailment of its services.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age.

The board of trustees shall make such payment with respect to all eligible employees who retire pursuant to this section.

This section shall not be applicable to any member otherwise eligible if such member is not eligible to retire without the additional credit available under this section.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

This section shall remain in effect only until June 30, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1980, deletes or extends such date.

SEC. 2. Section 20820 is added to the Government Code, to read:

20820. Notwithstanding any other provisions of this part, when the Governor, upon the recommendation of the Board of Trustees of the California State University and Colleges, determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the state would be served, a state member who is an employee of the California State University and Colleges shall be eligible to receive additional service credit if the following conditions exist:

(a) The member is credited with five or more years of service and retires during a period not to exceed 180 days or less than 90 days commencing no sooner than the date of issuance of the Governor's proclamation which shall specify such period

(b) The board of trustees transmits to the retirement fund an amount determined by the Board of Administration of the Public Employees' Retirement System which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without such service credit The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board of administration

(c) The board of trustees shall certify that it is electing to exercise the provisions of this section pursuant to the Governor's determination because of impending mandatory transfers,

demotions and layoffs, resulting from the curtailment of its services.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age.

The board of trustees shall make such payment with respect to all eligible employees who retire pursuant to this section

This section shall not be applicable to any member otherwise eligible if such member is not eligible to retire without the additional credit available under this section

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

This section shall remain in effect only until June 30, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1980, deletes or extends such date

SEC 3. The Legislative Analyst shall evaluate the results of the early retirement incentive program provided in Sections 1 and 2 and its effectiveness in preventing layoffs and shall report his findings to the Legislature by January 1, 1981

CHAPTER 657

An act to amend Section 309 of, and to add Section 309.5 to, the Health and Safety Code, and to repeal Section 2 of Chapter 1112 of the Statutes of 1975, relating to maternal and child health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

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

309 It is the policy of the State of California to make every effort to detect, as early as possible, phenylketonuria and other preventable heritable disorders leading to mental retardation or physical defects.

The State Department of Health Services shall establish a genetic disease unit, which shall coordinate all programs of the state department in the area of genetic disease The unit shall promote a statewide program of testing information and counseling services and shall have the responsibility of designating tests and regulations to be used in executing this program Such tests shall be in accordance with accepted medical practices and shall be administered to each child born in California at such time as the state department has established appropriate regulations and testing methods The state department may provide laboratory testing

facilities or contract with any laboratory which it deems qualified to conduct tests required under this section. However, notwithstnding the provisions of Section 309.5, provision of laboratory testing facilities by the state department shall be contingent upon the provision of funding therefor by specific appropriation to the Genetic Disease Testing Fund enacted by the Legislature If moneys appropriated for purposes of this section are not authorized for expenditure to provide laboratory facilities, the state department may nevertheless contract to provide laboratory testing services pursuant to this section and shall perform laboratory services, including, but not limited to, quality control, confirmatory, and emergency testing, necessary to ensure the objectives of this program.

The state department shall charge a fee for any tests performed pursuant to this section. The amount of such fee shall be established and periodically adjusted by the State Director of Health Services in order to meet the costs of this section.

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

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

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

The genetic disease unit's first task shall be to evaluate and prepare recommendations on the implementation of tests for the detection of the following diseases: galactosemia, histidinemia, galactokinase deficiency, homocystinuria, maple syrup urine disease, hypothyroidism, and tyrosinosis. The State Department of Health Services shall implement a program for the detection of phenylketonuria, galactosemia, and hypothyroidism commencing on or before January 1, 1980. The genetic disease unit shall prepare and submit a report outlining the compliance with an implementation schedule to the Legislature on or before a date two months after the effective date of the amendment to this section made at the 1979 portion of the 1979–80 Regular Session of the Legislature.

SEC 2. Section 309.5 is added to Article 3 (commencing with Section 300) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

309 5. The Genetic Disease Testing Fund is continued in existence as a special fund in the State Treasury. All moneys collected by the State Department of Health Services under Section 309 shall be deposited in the Genetic Disease Testing Fund, which is continuously appropriated to the department to carry out the

purposes of Section 309

It is the intent of the Legislature that the program carried out pursuant to Section 309 be fully supported from fees collected for such testing.

SEC. 3. Section 2 of Chapter 1112 of the Statutes of 1975 is repealed

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to protect the health and welfare of infants who are being born in California with metabolic disorders which lead to substantial handicaps at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 658

An act relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. The Office of Statewide Health Planning and Development may make a loan, as described in this section, pursuant to Section 13111 3 of the Health and Safety Code to any private nonprofit children's institution providing care for autistic children which received a loan commitment from the office for the 1978–79 fiscal year under Section 13111.3 covering cost items ineligible for funding pursuant to the terms of Section 13111 3 and which let contracts in reliance upon the loan commitment. Such a loan may be for the cost of the installation of an automatic sprinkler system, and, in addition, the proceeds of the loan may also be used to defray the cost of installing fire doors, plexiglass barriers, and partitions and other related expenses necessary to satisfy fire and life safety requirements of state and local government. The amount of the loan pursuant to this section shall not exceed thirty-five thousand dollars ($35,000), the term shall not exceed 30 years, and the interest rate shall be 5 percent per annum

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 reliance upon assurances of staff of the Office of Statewide Health Planning Development, certain nonprofit children's institutions entered into binding contracts, which will cause such

institutions financial losses resulting in a reduction in the ability of such institutions to provide care to autistic children. In order to prevent impairment of the vitally required programs of such facilities, it is necessary that this act to into immediate effect.

CHAPTER 659

An act to add Section 1095 1 to the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1 Section 1095.1 is added to the Unemployment Insurance Code, to read

1095 1 Wage information contained in the records of the department which is necessary, as determined by the Secretary of Health, Education, and Welfare by regulation, for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a state plan for aid and services to needy families with children approved under Part A of Title IV of the Social Security Act, shall be made available to any state or political subdivision thereof when such information is specifically requested by such state or political subdivision for such purposes. Safeguards shall be established by regulation, as determined necessary by the Secretary of Health, Education, and Welfare to insure that such information is used only for the purposes authorized by this section.

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

Section 403(b) of Public Law 95-216 enacted Section 3304(a) (16) of the Federal Unemployment Tax Act requiring that state unemployment compensation laws include provision for the disclosure of wage information by state employment security agencies, such as the Employment Development Department, to a state or political subdivision thereof upon request for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a state plan for aid and services to needy families with children, subject to certain safeguards. In order that California law comply with this federal mandate by not later than October 31, 1979, the certification date for federal findings of conformity of state with federal law, it is necessary that this act take immediate effect

CHAPTER 660

An act to amend, repeal, and add Sections 11512, 11735, 11736, 12036, and 14009 of, and to add and repeal Section 11512.5 to, the Food and Agricultural Code, relating to pest control.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1 Section 11512 of the Food and Agricultural Code is amended to read:

11512 Except as provided in Section 11512.5, the proceedings for all hearing pursuant to this division shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code The director shall have all of the powers which are granted in that chapter.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 2. Section 11512 is added to the Food and Agricultural Code, to read.

11512. The proceedings for all hearings pursuant to this division shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code The director shall have all of the powers which are granted in that chapter

This section shall become operative on January 1, 1983.

SEC. 3. Section 11512 5 is added to the Food and Agricultural Code, to read:

11512 5. Whenever the commissioner suspends a county registration or permit pursuant to Section 11735, 12035, or 14008 for 10 days or less, the party suspended may appeal to the director within 10 days of mailing or personal service of the commissioner's order The following procedure shall apply to the appeal:

(a) The appeal need not be formal but it shall be in writing and signed by the appellant or his authorized agent, shall state the grounds for the appeal, and may include a request that the commissioner's suspension order be stayed pending the director's decision

(b) Any party may, at the time of filing the appeal or within 10 days thereafter make written application to the director to present new evidence, stating the materiality of the evidence, and the reasons why such evidence was not introduced at the hearing before the commissioner The evidence may be allowed in the discretion of the director Thereafter, 10 days shall be given the parties to rebut such evidence and make written application to the director to present oral or written argument An application to present written

argument shall be granted, but the director shall have discretion to grant oral argument or to grant both oral and written argument. If an application to present oral argument is granted, written notice of the time and place for oral argument shall be given each party at least 10 days before the date set therefor. The time may be shortened by mutual agreement of the parties. If written argument is granted, all parties shall be notified thereof and shall simultaneously file briefs within the time specified by the director.

(c) The director shall decide the appeal upon the evidence received at the hearing before the commissioner, and such oral or written argument and new or additional evidence as the director may have received.

(d) On an appeal pursuant to this section, the director may sustain, reverse, or modify the suspension of a county registration or permit, for a period of 10 days or less. A copy of the director's decision shall be delivered or mailed to each party. This shall not be a limitation on the director's authority to (1) institute proceedings against any state license issued pursuant to this division or any permit issued pursuant to Division 7 (commencing with Section 12501), or (2) sustain, reverse, or modify, on an appeal pursuant to Section 11512, a sanction of more than 10 days imposed on a permittee or registrant by the commissioner.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 3.5. Section 11512.5 is added to the Food and Agricultural Code, to read:

11512.5. Whenever the commissioner suspends a county registration or permit pursuant to Section 11735, 11924, 12035, or 14008 for 10 days or less, the party suspended may appeal to the director within 10 days of mailing or personal service of the commissioner's order The following procedure shall apply to the appeal:

(a) The appeal need not be formal but it shall be in writing and signed by the appellant or his authorized agent, shall state the grounds for the appeal, and may include a request that the commissioner's suspension order be stayed pending the director's decision.

(b) Any party may, at the time of filing the appeal or within 10 days thereafter, make written application to the director to present new evidence, stating the materiality of the evidence, and the reasons why such evidence was not introduced at the hearing before the commissioner. The evidence may be allowed in the discretion of the director. Thereafter, 10 days shall be given the parties to rebut such evidence and make written application to the director to present oral or written argument An application to present written argument shall be granted, but the director shall have discretion to grant oral argument or to grant both oral and written argument If an application to present oral argument is granted, written notice of

the time and place for oral argument shall be given each party at least 10 days before the date set therefor. The time may be shortened by mutual agreement of the parties. If written argument is granted, all parties shall be notified thereof and shall simultaneously file briefs within the time specified by the director.

(c) The director shall decide the appeal upon the evidence received at the hearing before the commissioner, and such oral or written argument and new or additional evidence as the director may have received

(d) On an appeal pursuant to this section, the director may sustain, reverse, or modify the suspension of a county registration or permit, for a period of 10 days or less. A copy of the director's decision shall be delivered or mailed to each party This shall not be a limitation on the director's authority to (1) institute proceedings against any state license issued pursuant to this division or any permit issued pursuant to Division 7 (commencing with Section 12501), or (2) sustain, reverse, or modify, on an appeal pursuant to Section 11512, a sanction of more than 10 days imposed on a permittee or registrant by the commissioner.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date

SEC. 4. Section 11735 of the Food and Agricultural Code is amended to read:

11735 A pest control operator registration may be refused, revoked, or suspended by the commissioner, if the commissioner makes any of the following findings:

(a) That the equipment of the registrant or applicant is unsuitable.

(b) That the operators employed by him are incompetent or unqualified.

(c) That the registrant or the applicant has not complied with any provision of this division or of Division 7 (commencing with Section 12501) pertaining to pesticides, or with regulations adopted pursuant to such provisions, or with any lawful order of the commissioner.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date

SEC 5 Section 11735 is added to the Food and Agricultural Code, to read.

11735 Registration may be canceled or refused, if the commissioner makes any of the following findings

(a) That the equipment of the registrant or applicant is unsuitable

(b) That the operators employed by him are incompetent or unqualified.

(c) That the registrant or the applicant has not complied with any provision of this division, any regulation issued pursuant to it, or of any lawful order of the commissioner

This section shall become operative on January 1, 1983.

SEC 6 Section 11736 of the Food and Agricultural Code is amended to read

11736 Except as provided in Section 11512 5, any person whose registration has been canceled or refused may appeal to the director, within 10 days, for a hearing.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date

SEC 7 Section 11736 is added to the Food and Agricultural Code, to read

11736 Any person whose registration has been canceled or refused may appeal to the director, within 10 days, for a hearing

This section shall become operative on January 1, 1983

SEC 8 Section 12036 of the Food and Agricultural Code is amended to read

12036 Except as provided in Section 11512 5, any person whose registration has been revoked, suspended, or refused may appeal to the director within 10 days for a hearing on such revocation, suspension, or refusal and the director may sustain, reverse, or modify such revocation, suspension, or refusal

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date

SEC 9 Section 12036 is added to the Food and Agricultural Code, to read

12036 Any person whose registration has been revoked, suspended, or refused may appeal to the director within 10 days for a hearing on such revocation, suspension, or refusal and the director may sustain, reverse, or modify such revocation, suspension, or refusal

This section shall become operative on January 1, 1983

SEC 10 Section 14009 of the Food and Agricultural Code is amended to read

14009 Except as provided in Section 11512 5, any interested person, upon request, is entitled to a hearing before the director to review the action of a commissioner in issuing, refusing, revoking, or suspending a permit, or in imposing any condition which is not expressly specified in the applicable regulations The proceedings for the hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code The provisions of Sections 11505 and 11506 of the Government Code shall not, however, apply to the proceedings, and the statement of issues or accusation, as the case may be, shall be delivered or mailed to the parties as provided in Section 11509 of the Government Code

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date

SEC. 11. Section 14009 is added to the Food and Agricultural Code, to read.

14009. Any interested person, upon request, is entitled to a hearing before the director to review the action of a commissioner in issuing, refusing, revoking, or suspending a permit, or in imposing any condition which is not expressly specified in the applicable regulations. The proceedings for the hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The provisions of Sections 11505 and 11506 of the Government Code shall not, however, apply to the proceedings, and the statement of issues or accusations, as the case may be, shall be delivered or mailed to the parties as provided in Section 11509 of the Government Code.

This section shall become operative on January 1, 1983.

SEC. 12. Section 3.5 of this act shall become operative only if Assembly Bill 1118 is chaptered on or before January 1, 1980, and adds Section 11924 to the Food and Agricultural Code, in which case Section 3 5 shall become operative and Section 3 of this act shall not become operative.

CHAPTER 661

An act to amend Section 704 of, and to add Sections 704 1, 704.2, 704.3, and 704.4 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. Section 704 of the Unemployment Insurance Code is amended to read:

704. The director shall not approve an election under Section 701, 702, 702 1, 702.5, 703, 708, or 708.5 if he or she finds that any of the following conditions exist

(a) The employing unit or self-employed individual is not normally and continuously engaged in a regular trade, business or occupation.

(b) The employing unit or self-employed individual intends to discontinue the regular trade, business or occupation within eight calendar quarters.

(c) The regular trade, business, or occupation of the employing unit or self-employed individual is seasonal in its operations

(d) The employing unit or self-employed individual has failed to make a return or to pay contributions within the time required by this division and there is an unpaid amount of contributions owing by the employing unit or self-employed individual

(e) The employing unit or any officer or agent of or person having charge of the affairs of the employing unit, or the self-employed individual has been convicted within the preceding eight consecutive calendar quarters of any violation under Chapter 10 (commencing with Section 2101). For the purposes of this subdivision, a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction irrespective of whether an order granting probation or other order is made suspending the imposition of the sentence or whether sentence is imposed but execution thereof is suspended.

SEC 2. Section 704 1 is added to the Unemployment Insurance Code, to read·

704 1 (a) Notwithstanding any other provision of this division, the director may terminate any elective coverage agreement under this article if he or she finds that any of the following conditions exist:

(1) The employing unit or self-employed individual has discontinued the regular trade, business, or occupation.

(2) The regular trade, business, or occupation of the employing unit or self-employed individual is seasonal in its operations.

This paragraph shall not apply to any public entity.

(3) The employing unit or self-employed individual has failed to make a return or to pay contributions within the time required by this division and there is an unpaid amount of contributions owing by the employing unit or self-employed individual.

(4) The employing unit or any officer or agent of or person having charge of the affairs of the employing unit, or the self-employed individual is convicted of any violation pursuant to Chapter 10 (commencing with Section 2101). For the purposes of this paragraph, a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction irrespective of whether an order granting probation or other order is made suspending the imposition of the sentence or whether sentence is imposed but execution thereof is suspended

(b) The director shall give to the employing unit, or to the self-employed individual, a written notice of the director's termination of the elective coverage agreement under this section. The date of termination may be the end of the calendar quarter immediately preceding the existence of any condition specified in subdivision (a), or the end of any subsequent calendar quarter thereafter, as determined by the director. In no event shall the termination of any elective agreement pursuant to this section entitle the employing unit or self-employed individual to any refund of contributions

Any termination of elective coverage shall not affect the liability of the employing unit or self-employed individual for any contributions due, owing, and unpaid to the department.

SEC 3 Section 704.2 is added to the Unemployment Insurance Code, to read

704 2 The service of notice of termination of an elective

coverage agreement pursuant to Section 704 1 may be made personally, or by mail pursuant to Section 1013 of the Code of Civil Procedure, addressed to the employing unit or self-employed individual at the address as it appears in the records of the department. Service by mail is complete at the time of deposit in the United States mail. The employing unit or self-employed individual may file with a referee a petition for review of termination of elective coverage within 30 days after service of the notice of termination. An additional 30 days for the filing of a petition may, for good cause, be granted by the referee. If a petition is not filed within the 30-day period, or within the additional period granted by the referee, the termination becomes final at the expiration of the period.

SEC. 4. Section 704 3 is added to the Unemployment Insurance Code, to read·

704.3 If a petition for review of termination of an elective coverage agreement is filed within the time prescribed by Section 704.2, the referee shall review the termination and grant a hearing The referee shall give at least 20 days' notice of the time and place of hearing on the petition by delivering or mailing the notice to the petitioner and to the director. The time of notice may be shortened with the consent of the parties The referee shall render a decision in the matter and shall promptly notify the petitioner and the director of the decision, together with the referee's reasons therefor

SEC 5. Section 704.4 is added to the Unemployment Insurance Code, to read.

704 4 The petitioner or the director may, within 30 days after the mailing of the decision of a referee under Section 704.3, file an appeal with the appeals board. Such appeal period may be extended by the appeals board for good cause. If the appeal is not filed within the 30-day period or within the additional period granted by the appeals board, the decision of the referee upon the petition becomes final at the expiration of the period

---

CHAPTER 662

An act to amend Section 44345 of the Education Code, relating to certificated employees

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 44345 of the Education Code is amended to read

44345 The commission may deny any application for the issuance of a credential or for the renewal of a credential made by any

applicant who:

(a) Lacks the qualifications which are prescribed by law or regulations adopted by the commission pursuant thereto;

(b) Is physically or mentally so disabled as to be rendered unfit to perform the duties authorized by the credential for which he or she applies; provided, however, that the mere fact that an applicant has sought or received psychiatric treatment shall not be considered as preliminary evidence of mental disability and shall not provoke special scrutiny of such applicant's qualifications for a credential;

(c) Is addicted to the use of intoxicating beverages to excess;

(d) Is addicted to the use of narcotics or habit-forming drugs;

(e) Has committed any act involving moral turpitude;

(f) Has had a certification document revoked;

(g) Has intentionally practiced or attempted to practice any material deception or fraud in his or her application;

(h) Fails or refuses to furnish reasonable evidence of identification or good moral character; or

(i) Has been convicted of any offense defined in subdivision 1 of Section 314 of the Penal Code prior to September 7, 1955.

Any denial pursuant to subdivisions (a) to (e), inclusive, shall be based upon reasons related to the applicant's fitness to teach or fitness to perform other duties for which that applicant is certificated, or competence to perform the duties which the credential would authorize the applicant to perform

---

CHAPTER 663

An act to amend Section 18135 of, and to repeal Section 18135 5 of, the Government Code, to amend Section 2626 of, and to repeal Section 2626 2 of the Unemployment Insurance Code as amended by Section 2 of Chapter 13 of the Statutes of 1979, and Section 2626 2 of the Unemployment Insurance Code as added by Section 2.5 of Chapter 13 of the Statutes of 1979, relating to disability benefits, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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 permanent or probationary 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 mental or physical illness and mental or physical injury, including any illness or injury resulting from pregnancy, childbirth, or related medical condition An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her 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 repealed

SEC 3 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, including any illness or injury resulting from pregnancy, childbirth, or related medical condition.

(b) 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.

(c) Acute alcoholism being medically treated or, to the extent specified in Section 2626.1, resident status in an alcoholic recovery home

SEC 4 Section 2626 2 of the Unemployment Insurance Code, as amended by Section 2 of Chapter 13 of the Statutes of 1979, is repealed

SEC. 5. Section 2626 2 of the Unemployment Insurance Code, as added by Section 2.5 of Chapter 13 of the Statutes of 1979 is repealed.

SEC. 6 This act shall become operative with respect to periods of disability existing on or after April 29, 1979

SEC. 7. The sum of one million five hundred five thousand dollars ($1,505,000) is hereby appropriated from the General Fund 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 for state employees, according to the following schedule

(a) For the 1978–79 fiscal year	$215,000
(b) For the 1979–80 fiscal year	$1,290,000

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 Civil Rights Act of 1964 requires that women affected by pregnancy, childbirth, or related medical conditions be treated the same for all employment related purposes as other persons not so affected but similar in their ability or inability to work, including, effective April 29, 1979, receipt of benefits under fringe benefit programs.

Thus, in order to provide women employed in California who are affected by pregnancy, childbirth, or related medical condition with disability benefits on the same terms and conditions as other persons not so affected as soon as possible, it is necessary that this act take effect immediately

CHAPTER 664

An act relating to community colleges, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. (a) For the 1979–80 fiscal year, the amount of the apportionment from Section B of the State School Fund to a community college district, which changed its regular academic calendar from a quarter system to a semester system in the 1977–78 school year, shall be increased by the amount by which the apportionment to such district for the 1978–79 fiscal year would have been increased if the "target budget" computed pursuant to Section 84904 of the Education Code had been increased by an amount equal to the amount withheld from the district's apportionment for the 1977–78 fiscal year pursuant to Section 84330 of the Education Code

(b) For the 1979–80 fiscal year, the amount of the apportionment from Section B of the State School Fund to a community college district, which changed its regular academic calendar from a quarter system to a semester system in the 1977–78 school year, shall be decreased by the amount by which the apportionment to such district for the 1978–79 fiscal year would have been decreased if the "target budget" computed pursuant to Section 84904 of the Education Code had been decreased by an amount equal to the amount added to the district's apportionment for the 1977–78 fiscal year pursuant to Section 84330 of the Education Code.

SEC 2 If apportionments to community college districts for the 1979–80 fiscal year are computed, in whole or in part, on the basis of the amount of the apportionments made to such districts in the 1978–79 fiscal year, the amount of such apportionments for the 1978–79 fiscal year shall be deemed to include an amount equal to the amount by which such apportionment was increased or decreased pursuant to Section 1 of this act.

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

In order to permit the adjustments to apportionments to community college districts prescribed by this act to become operative at the earliest possible date, and so facilitate the orderly administration of community college finance in the 1979–80 fiscal year, it is necessary that this act take effect immediately

CHAPTER 665

An act to amend the heading of Part 11 (commencing with Section 10810) of Division 2 of, and Sections 25102, 25104, 25210, 25211, 25214, 25217, 25218, 25242 and 25608 of, to add Article 4 (commencing with Section 10840) to Part 11 of Division 2, and Section 25213 to, and to repeal Sections 25212.1 and 25213 of, the Corporations Code, and to amend Section 11496 of the Insurance Code, relating to regulated persons.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. The heading of Part 11 (commencing with Section 10810) of Division 2 of the Corporations Code is amended to read:

PART 11 NONPROFIT MEDICAL,HOSPITAL, OR LEGAL SERVICES CORPORATIONS

SEC 1 3 Article 4 (commencing with Section 10840) is added to Part 11 of Division 2 of the Corporations Code, to read:

Article 4. Hospital Service Plans

10840. (a) "Hospital service plan," as used in this section means a corporation which is a nonprofit hospital service plan defined in Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code

(b) A hospital service plan may be formed under or subject to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110)

(c) Notwithstanding any other provision of this article, a hospital service plan which is formed under or subject to Part 2 (commencing with Section 5110) shall not be subject to Section 5142, 5223, 5226, 5233, 5250, or 5820 but shall instead be governed as to such matters by Sections 10841 to 10846, inclusive.

10841 (a) Notwithstanding the provisions of Section 5141, any of the following may bring an action to enjoin, correct, obtain damages for, or to otherwise remedy a breach of a charitable trust.

(1) The corporation, or a member in the name of the corporation pursuant to Section 5710

(2) An officer of the corporation

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in trust assets

(5) The Insurance Commissioner

The Attorney General shall be given notice of any action brought

by the persons specified in paragraphs (1) through (5), and may intervene

(b) In an action under this section, the court may rescind or enjoin the performance of a contract unless:

(1) All of the parties to the contract are not parties to the action,

(2) A party to the contract without actual notice of the trust restriction has, in good faith, parted with value under the contract or in reliance upon it, or

(3) It is not equitable to do so.

10842 (a) The superior court of the proper county may, at the suit of a director, or twice the authorized number (Section 5036) of members, remove from office any director in case of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the corporation or the breach of any duty arising under Article 3 (commencing with Section 5230) of Chapter 2 of Part 2, and may bar from reelection any director so removed for a period prescribed by the court The corporation shall be made a party to such action

(b) The Insurance Commissioner may bring an action under subdivision (a), may intervene in such an action brought by any other party, and shall be given notice of any such action brought by any other party

10843 Except upon notice to the Insurance Commissioner, no director may resign where the corporation would then be left without a duly elected director or directors in charge of its affairs

10844 (a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction to which the corporation is a party and in which one or more directors has a material financial interest. Such a director is an "interested director" for the purpose of this section

(b) The provisions of this section do not apply to any of the following

(1) An action of the board fixing the compensation of a director as a director or officer of the corporation

(2) A transaction which is part of a public or charitable program of the corporation if it· (i) is approved or authorized by the corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public or charitable program

(3) A transaction, of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of one percent of the gross receipts of the corporation for the preceding fiscal year or one hundred thousand dollars ($100,000)

(c) The Insurance Commissioner or, if the Insurance Commissioner is joined as an indispensable party, any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h)

(1) The corporation or a member asserting the right in the name of the corporation pursuant to Section 5710,

(2) A director of the corporation; or

(3) An officer of the corporation

Notice of such action shall be given to the Attorney General who may intervene.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if:

(1) The Insurance Commissioner or the court in an action in which the Attorney General is an indispensable party has approved the transaction before or after it was consummated; or

(2) The person asserting the validity of the transaction sustains the burden of proving that.

(A) The corporation entered into the transaction for its own benefit;

(B) The transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction Except as provided in paragraph (3), action by a committee of the board shall not satisfy this paragraph; and

(D) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or the corporation in fact could not have obtained a more advantageous arrangement with reasonable effort under the circumstances.

(3) The person asserting the validity of the transaction sustains the burden of proving that

(A) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in paragraph (2);

(B) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(C) The board, after determining in good faith that the conditions of subparagraphs (A) and (B) were satisfied, ratified the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

(e) Except as provided in subdivision (f), an action under subdivision (c) must be filed within two years after written notice setting forth the material facts of the transaction and the director's interest in the transaction is filed with the Insurance Commissioner in accordance with such regulations, if any, as the Insurance Commissioner may adopt or, if no such notice is filed, 10 years after the cause of action has accrued

(f) In any action for breach of an obligation of the corporation

owed to an interested director, where the obligation arises from a self-dealing transaction which has not been approved as provided in subdivision (d), the court may, by way of offset only, make any order authorized by subdivision (h), notwithstanding the expiration of the applicable period specified in subdivision (e).

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction.

(h) If a self-dealing transaction which has not been approved as provided in subdivision (d) has taken place, the interested director or directors shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation, taking into account any benefit received by the corporation and whether the interested director or directors acted in good faith and with intent to further the best interest of the corporation Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transaction; and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate. The court may award prejudgment interest to the extent allowed in Section 3287 or 3288 of the Civil Code In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section

10845. A corporation is subject at all times to examination by the Insurance Commissioner, on behalf of the state, to ascertain the condition of its affairs and to what extent, if at all, it fails to comply with trusts which it has assumed or, has departed from the purposes for which it is formed. In case of any such failure or departure, the Insurance Commissioner shall institute, in the name of the state, the proceeding necessary to correct the noncompliance or departure

Notice of such action shall be given to the Attorney General who may intervene

10846 (a) Amendment of the articles of a corporation, pursuant to Chapter 8 (commencing with Section 5810) of Part 2 does not, of itself, abrogate any requirement or limitation imposed upon the corporation, or any property held by it, by virtue of the trust under which such property is held by the corporation

(b) The Insurance Commissioner may, at the corporation's request, and pursuant to such regulations as the Insurance Commissioner may issue, give rulings as to whether the Insurance Commissioner will or may oppose a proposed action or article amendment, as inconsistent with or proscribed by the requirements

of a charitable trust.

SEC 1 7. Section 25102 of the Corporations Code is amended to read:

25102. The following transactions are exempted from the provisions of Section 25110:

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to such offer if (1) the agreement contains substantially the following provision: "The sale of the securities which are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of such securities or the payment or receipt of any part of the consideration therefor prior to such qualification is unlawful. The rights of all parties to this agreement are expressly conditioned upon such qualification being obtained."; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of such securities is qualified under this law.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of such act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to such offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of such securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified prior to distribution thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale, in a transaction not involving any public offering, of any bona fide general partnership, joint venture or limited partnership interest, or any beneficial interest in a trust which is a "security" within the meaning of Section 25019, if in the case of such beneficial trust interests immediately after the sale and issuance they are owned by no more than five persons.

(g) Any offer or sale of conditional sale agreements, equipment trust certificates, or certificates of interest or participation therein or partial assignments thereof, covering the purchase of railroad rolling stock or equipment or the purchase of motor vehicles, aircraft, or parts thereof, in a transaction not involving any public offering

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and

issuance, there will be only one class of stock of such corporation outstanding which is owned beneficially by no more than 10 persons, provided all of the following requirements have been met

(1) All such stock shall be evidenced by certificates which shall have stamped or printed prominently on their face a legend in a form to be prescribed by rule of the commissioner restricting transfer of such stock in such manner as the rule provides.

(2) The offer and sale of such stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith

(3) The consideration to be received by the issuer for the stock to be issued shall consist of (i) only assets (which may include cash) of an existing business enterprise transferred to the issuer upon its initial organization, of which all of the persons who are to receive the stock to be issued pursuant to this exemption were owners during, and such enterprise was operated for, a period of not less than one year immediately preceding the proposed issuance, and the ownership of such enterprise immediately prior to such proposed issuance was in the same proportions as the shares of stock are to be issued, or (ii) only cash or cancellation of indebtedness for money borrowed or both upon the initial organization of the issuer, provided all such stock is issued for the same price per share, or (iii) only cash, provided the sale is approved in writing by each of the existing shareholders and the purchaser or purchasers are existing shareholders, or (iv), in a case where after the proposed issuance there will be only one owner of the stock of the issuer, any legal consideration

(4) No promotional consideration has been given, paid, or incurred in connection with such issuance Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other persons, takes the initiative in founding and organizing the business or enterprise of an issuer, for services rendered in connection with such founding or organizing

(5) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer, which notice shall contain an opinion of such member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities. Such notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in such form as the commissioner by rule prescribes, appointing the commissioner or his successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor 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 issuer An issuer on whose

behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice 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 its 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

For the purposes of this subdivision, all securities held by a husband and wife, whether or not jointly, shall be considered to be owned by one person, and all securities held by a corporation which has issued stock pursuant to this exemption shall be considered to be held by the shareholders to whom it has issued such stock.

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of such a corporation which after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer; provided the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers. (i) are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) such security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by such bank, provided each purchaser represents that it is purchasing for its own account for investment and not with a view

to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization or arrangement which, pursuant to the provisions of the National Bankruptcy Act, has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to such right, if the transaction, had it involved an offer or sale of the security subject to such right by such person, would not have violated Section 25130.

SEC. 2. Section 25104 of the Corporations Code is amended to read:

25104. The following transactions are exempted from the provisions of Section 25130:

(a) Any offer or sale of a security by the bona fide owner thereof for his own account if the sale (1) is not accompanied by the publication of any advertisement and (2) is not effected by or through a broker-dealer in a public offering.

(b) Any offer or sale effected by or through a licensed broker-dealer pursuant to an unsolicited order or offer to buy. For the purpose of this subdivision (b) an inquiry regarding a written bid for a security or a written solicitation of an offer to sell a security made by another broker-dealer within the previous 60 days, shall not be considered the solicitation of an order or offer to buy.

(c) Any offer or sale to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee; provided the purchaser represents that it is purchasing for its own account (or for such trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(d) Any transaction or agreement between a person on whose behalf an offering is made and an underwriter or among underwriters, if the sale of the securities is qualified prior to distribution thereof in this state, if any.

(e) Any offer or sale of any security by or for the account of a bona fide secured party selling the security in the ordinary course of business to liquidate a bona fide debt.

(f) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator.

(g) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and

no public proceeding or examination looking toward such an order is pending under Section 8 of that act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(h) Any offer or sale of a security if a qualification under Chapter 2 (commencing with Section 25110) of this part for any securities of the same class has become effective within 18 months prior to such offer or sale or if a qualification under Chapter 3 (commencing with Section 25120) or Chapter 4 (commencing with Section 25130) of this part for any securities of the same class has become effective within 12 months prior to such offer or sale, provided no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law with respect to such qualification, and, provided further, that this exemption does not apply to such securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to an exemption under Regulation A under that act if the aggregate offering price of the securities offered under such exemption exceeds fifty thousand dollars ($50,000) The commissioner may, by rule or order, withhold this exemption with respect to securities qualified only pursuant to a limited offering qualification

SEC. 3 Section 25210 of the Corporations Code is amended to read

25210 (a) Unless exempted under the provisions of Chapter 1 (commencing with Section 25200) of this part, no broker-dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state unless such broker-dealer has first applied for and secured from the commissioner a certificate, then in effect, authorizing such person to act in that capacity.

(b) No person shall, on behalf of a broker-dealer licensed pursuant to Section 25211, or on behalf of an issuer, effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state unless such broker-dealer and agent have complied with such rules as the commissioner may adopt for the qualification and employment of such agents

SEC 4 Section 25211 of the Corporations Code is amended to read

25211 (a) The application for a certificate as a broker-dealer shall be accompanied by the consent to service of process specified in Section 25240 and, unless filed pursuant to subdivision (b), shall contain such information in such detail relating to the applicant and any persons associated with him as the commissioner may by rule require

(b) A broker-dealer registered under the Securities Exchange Act of 1934 who is a member of the New York Stock Exchange, the American Stock Exchange, the Pacific Stock Exchange, or the National Association of Securities Dealers, and who has not had any certificate as a broker-dealer, investment adviser or agent denied or revoked under this law or any predecessor statute, may be licensed by notification pursuant to this subdivision by filing with the commissioner an application setting forth the following information

in such form and detail as the commissioner may by rule require:

(1) Such information as is necessary to identify the broker-dealer and its offices in this state, and the location of its records and principal office.

(2) Such information as is necessary to establish that the broker-dealer meets the requirements for licensure by notification under this subdivision.

(3) The consent to service of process specified in Section 25240.

(4) Such information as the commissioner may require as to the jurisdictions in which such broker-dealer is licensed or registered and as to the nature of the business conducted by the broker-dealer.

(c) A certificate under subdivision (b) shall become effective on the third business day after the application is filed with the commissioner or upon the day the certificate is issued, whichever first occurs. The commissioner may by rule or order waive that provision of subdivision (b) which precludes application thereunder by a person who has had a certificate denied or revoked under this law or any predecessor statute if the commissioner finds such waiver to be in the public interest. 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 disqualify a self-regulatory organization specified in subdivision (b) from the provisions thereof. The commissioner may by rule establish standards or criteria pursuant to which disqualification may be made and he may disqualify upon a finding that the self-regulatory organization fails substantially to comply with such standards or criteria. Such disqualification by the commissioner shall not affect a certificate which has become effective pursuant to this subdivision prior to the effective date of such rule or order of disqualification but each person licensed pursuant to subdivision (b) upon the basis of membership in such organization shall, within 90 days after the effective date of such rule or order, or such additional time as the commissioner may allow, file with the commissioner a complete and current application in the form required pursuant to subdivision (a). If a broker-dealer licensed pursuant to subdivision (b) ceases to meet the qualifications for licensing pursuant to that subdivision, he shall, within 10 days after such event, file with the commissioner a complete and current application in the form required pursuant to subdivision (a).

(d) An application for a certificate as a broker-dealer, with respect to a broker-dealer to be formed or organized, may be made by a licensed broker-dealer to which the broker-dealer to be formed or organized is to be the successor. Such application shall contain such information in such detail relating to the applicant and to the successor and any person associated with the applicant or the successor as the commissioner may by rule require. Such application shall become effective and the successor may transact business as a broker-dealer 30 days after the receipt of such application by the

commissioner or within such shorter period of time as the commissioner may determine, unless an order has been entered under Section 25212 denying a certificate to the successor or a proceeding looking toward such an order has been instituted under that section Such certificate shall terminate on the 45th day after the effective date thereof, unless prior thereto the successor shall, in accordance with such rules as the commissioner may prescribe, adopt such application as its own and file the consent to service of process specified in Section 25240

SEC 5 Section 25212 1 of the Corporations Code is repealed

SEC 6. Section 25213 of the Corporations Code is repealed

SEC 7 Section 25213 is added to the Corporations Code, to read

25213. 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, management or control of any broker-dealer or investment adviser, any officer, director, partner, agent, employee of, or person performing similar functions for, a licensed broker-dealer, if the commissioner finds that such censure, suspension or bar is in the public interest and that such person has committed any act or omission enumerated in subdivision (a), (e) or (f) of Section 25212 or has been convicted of, or pled nolo contendere to, any offense or been held liable in any civil action specified in subdivision (b) of Section 25212, or is enjoined from any act, conduct or practice specified in subdivision (c) of Section 25212 or is subject to any order specified in subdivision (d) of Section 25212

SEC 8 Section 25214 of the Corporations Code is amended to read:

25214. (a) It is unlawful for any person, as to whom an order suspending or barring employment or control is in effect pursuant to Section 25213, willfully to become or to be employed by any broker-dealer or investment adviser, contrary to the terms of such order, without the consent of the commissioner; and it is unlawful for any broker-dealer to permit a person as to whom an order is in effect pursuant to Section 25213, 25232.1 or 29538 1 to become or to remain a person employed by him, contrary to the terms of such order, without the consent of the commissioner, if such broker-dealer knew, or in the exercise of reasonable care should have known, of such order

(b) Any person as to whom an order suspending or barring employment or control is issued pursuant to Section 25213 may petition the commissioner for reinstatment or reduction of penalty, or for modification of such order, as provided in and subject to the provisions of Section 11522 of the Government Code The commissioner may, at any time and with the consent of such person without hearing, modify such order

SEC 9 Section 25217 of the Corporations Code is amended to read

25217 (a) No broker-dealer licensed under this chapter shall,

effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state unless such broker-dealer and all agents employed by such broker-dealer meet such specified and appropriate standards with respect to training, experience, supervision, terms of employment, and other qualifications as the commissioner finds necessary or desirable. The commissioner may establish such standards by rules, which may: (1) appropriately classify broker-dealers and agents (taking into account relevant matters, including types of business done and nature of securities sold), (2) specify that all or any portion of such standards shall be applicable to any such class, (3) require persons in any such class to pass examinations prescribed in accordance with such rules, and (4) provide that persons in any such class, other than a broker-dealer and partners, officers and supervisory employees (which term may be defined by the commissioner's rules and as so defined shall include branch managers of broker-dealers) of broker-dealers, may be qualified solely on the basis of compliance with such specified standards of training and such other qualifications as the commissioner finds appropriate.

(b) In addition to the fees imposed by Section 25608, the commissioner may prescribe by rule reasonable fees and charges to defray the cost of any examination administered by the commissioner or under the commissioner's direction. The commissioner may cooperate with national securities associations and national securities exchanges and with the Securities and Exchange Commission in administering examinations and may require broker-dealers and agents to pass examinations administered by or on behalf of any such association or exchange or by the Securities and Exchange Commission and to pay to such association or exchange or such commission reasonable fees or charges to defray the costs incurred by such association or exchange or commission in administering such examinations

(c) A broker-dealer licensed under this chapter making loans to its customers which are subject to the provisions of Division 9 (commencing with Section 22000) of the Financial Code shall be licensed as a personal property broker under that division.

SEC 10 Section 25218 of the Corporations Code is amended to read

25218 No broker-dealer licensed under this chapter shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state in contravention of such rules as the commissioner may prescribe designed to promote just and equitable principles of trade, to provide safeguards against unreasonable profits or unreasonable rates of commissions or other charges, and in general to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market

SEC 11 Section 25242 of the Corporations Code is amended to read

25242. (a) Surrender of a certificate as a broker-dealer or agent or investment adviser becomes effective 30 days after receipt of an application to surrender such certificate or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the application is filed. If such a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines.

(b) If the commissioner finds that any agent or broker-dealer or investment adviser is no longer in existence, or has ceased to do business as a broker-dealer or agent or investment adviser, or is subject to an adjudication of mental incompetence or to the control of a committee or conservator or guardian, or cannot be located after reasonable search, the commissioner may by order summarily revoke the certificate of such broker-dealer or agent or investment adviser.

(c) The commissioner may summarily suspend or revoke the certificate of a broker-dealer or agent or investment adviser if he (1) fails to pay any fee required by Section 25608 or imposed pursuant to Section 25217, 25218 or 25236 within 10 days after notice by the commissioner that such fee is due and unpaid, (2) fails to file any report required under Section 25241 within 10 days after notice by the commissioner that such report is due, (3) fails to maintain any bond required by subdivision (e) of Section 25216 or by Section 25237, or (4) fails to file an application pursuant to subdivision (a) of Section 25211 when required by subdivision (c) of that section, within the time specified therein or within 10 days after notice by the commissioner that such application is required, whichever last occurs.

SEC. 12. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the State Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the General Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to clause 5 of subdivision (h) of Section 25102 is twenty-five dollars ($25).

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (j) of this section) is one hundred dollars

($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750).

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 is one hundred dollars ($100) plus one-tenth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of one thousand five hundred fifty dollars ($1,550)

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f)·

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in exchange therefor, or of the securities when sold, whichever is greater

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for such warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if such latter amount is not determinable at the time of qualification, such amount shall be the then value of such additional securities as determined by the commissioner

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is

(1) One hundred dollars ($100) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities;

(2) One hundred dollars ($100) plus one-tenth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of one thousand seven hundred fifty dollars ($1,750), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be sixty dollars ($60).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner requiring the commissioner's consent to such transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing such securities pursuant to subdivision (h) of Section 25102, is ten dollars ($10) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300) for the first office or location and one hundred dollars ($100) for each additional office or location in California, and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year, during the following calendar year. Every broker-dealer who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of three hundred dollars ($300) for the first office or location, one hundred dollars ($100) for each additional office or location in California and ten dollars ($10) for each agent doing business in this state, on or before the 15th day of December preceding the additional period. Within 30 days of the opening of a new branch office a broker-dealer shall pay the commissioner a fee of one hundred dollars ($100), if the branch is opened in an even-numbered year and fifty dollars ($50) if the branch is opened in an odd-numbered year

(2) For the purpose of determining the fee for an additional period specified under this subdivision, the number of additional offices or locations and the number of agents shall be determined as of the 31st day of October preceding the additional period.

(p) The commissioner may by rule fix a fee of not to exceed

twenty-five dollars ($25) for the filing of a notice or report required by rule adopted pursuant to subdivision (b) of Section 25210.

(q) The fee for filing an application for an investment adviser under Section 25231 is two hundred fifty dollars ($250), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted, and if that year is an even-numbered year during the following calendar year. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep such certificate in effect for an additional two-year period, pay a renewal fee of two hundred fifty dollars ($250) on or before the 15th day of December preceding the additional period.

(r) The fee for any examination, audit, or investigation is the actual amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding such hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his authority; provided, however, that such charges shall not be applicable to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h) or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (*l*) of Section 25100 is two hundred fifty dollars ($250).

SEC. 13. Section 11496 of the Insurance Code is amended to read:

11496. Persons desiring to form a nonprofit hospital service corporation shall incorporate pursuant to the provisions of this chapter and the Nonprofit Hospital Service Plan Law (Article 4 (commencing with Section 10840) of Part 11 of Division 2 of Title 1 of the Corporations Code) and the provisions of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), or the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code), so far as the provisions of the Nonprofit Corporation Law are applicable and not inconsistent with this chapter.

SEC 14 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to those sections 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 agencies and school districts which, in the aggregate, do not

result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253 2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act.

SEC. 15. (a) All agents' certificates issued and in effect pursuant to Section 25210 of the Corporations Code on December 31, 1979, are terminated, and shall be of no force or effect, as of the effective date of this act

(b) No provision of this act shall affect any suit, action, prosecution or proceeding which is pending or which may be initiated on the basis of facts or circumstances occurring before the effective date of this act; provided, that any administrative proceeding instituted by the Commissioner of Corporations prior to the effective date of this act pursuant to Section 25212.1 or 25213 of the Corporations Code as in effect on December 31, 1979, but which is not decided on or before that date, shall be governed by Section 25213 of the Corporations Code as set forth in Section 5.

(c) The Commissioner of Corporations shall refund any agent renewal fees paid pursuant to subdivision (p) of Section 25608 as in effect on December 31, 1979, for the two-year period commencing January 1, 1980.

(d) On or before January 31, 1980, each broker-dealer licensed pursuant to Section 25210 of the Corporations Code shall file with the Commissioner of Corporations a list of its agents doing business in this state, and shall pay to the commissioner a fee of ten dollars ($10) for each such agent. The Commissioner of Corporations may by rule or order specify the form in which such list shall be filed and the procedures to be followed pursuant to this subdivision and may extend the time within which such list shall be filed and such fee shall be paid.

CHAPTER 666

An act to amend Sections 33006 and 44944 of the Education Code, relating to education

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1 Section 33006 of the Education Code is amended to read

33006 Members of the board shall receive their actual and necessary traveling expenses while on official business. Each

member shall also receive fifty dollars ($50) for each day he or she is acting in an official capacity.

SEC. 2 Section 44944 of the Education Code is amended to read:

44944. (a) In the event a hearing is requested by the employee, the hearing shall be commenced within 60 days from the date of the employee's demand for a hearing. The hearing shall be initiated, conducted, and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, provided, however, that the hearing date shall be established after consultation with the employee and the governing board, or their representatives, and the Commission on Professional Competence shall have all the power granted to an agency therein, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to seven calendar days before the date upon which the hearing commences. If any continuance is granted pursuant to Section 11524 of the Government Code, the time limitation for commencement of the hearing as provided in this subdivision shall be extended for a period of time equal to such continuance; provided, however, that such extension shall not include that period of time attributable to an unlawful refusal by either party to allow the discovery provided for in this section.

If the right of discovery granted under the preceding paragraph is denied by either the employee or the governing board, all the remedies in Section 2034 of the Code of Civil Procedure shall be available to the party seeking discovery and the court of proper jurisdiction, to entertain his motion, shall be the superior court of the county in which the hearing will be held.

The time periods in this section and of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall not be applied so as to deny discovery in a hearing conducted pursuant to this section.

The superior court of the county in which the hearing will be held may, upon motion of the party seeking discovery, suspend the hearing so as to comply with the requirement of the preceding paragraph.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice

(b) The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be a hearing officer of the Office of Administrative Hearings who shall be chairman and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. If either the governing board or the employee for any reason fails to select a commission member at least seven calendar days prior to the date of the hearing, such failure shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. When the county board of education is also the governing board of the school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent of Public Instruction, who shall be reimbursed by the school district for all costs incident to the selection

The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal and shall hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee

(c) The decision of the Commission on Professional Competence shall be made by a majority vote and the commission shall prepare a written decision containing findings of fact, determinations of issues and a disposition which shall be, solely, either:

(1) That the employee should be dismissed

(2) That the employee should not be dismissed

The commission shall not have the power to dispose of the charge of dismissal by imposing probation, suspension of a dismissal or a nondismissal, or other alternative sanctions.

The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section, as may be necessary to effectuate this section

The governing board and the employee shall have the right to be represented by counsel

(d) (1) If the member selected by the governing board or the member selected by the employee is employed by any school district in California, such member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the district in which the member is employed, but shall receive no additional compensation or honorariums for service on the commission.

(2) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the

current or immediately preceding contract period from the member's employing district, whichever amount is greater.

(e) If the Commission on Professional Competence determines that the employee should be dismissed, the governing board and the employee shall share equally the expenses of the hearing, including the cost of the hearing officer, and the state shall pay, any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, including, but not limited to payments or obligations incurred for travel, meals, and lodging, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee The State Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations, and forms for the submission of such claims. The employee and the governing board shall pay their own attorney fees

If the Commission on Professional Competence determines that the employee should not be dismissed, the governing board shall pay the expenses of the hearing, including the cost of the hearing officer, any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, including, but not limited to payments or obligations incurred for travel, meals, and lodging, the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee, and reasonable attorney fees incurred by the employee.

As used in this section, "reasonable expenses" shall not be deemed "compensation" within the meaning of subdivision (d).

If either the governing board or the employee petitions a court of competent jurisdiction for review of the decision of the commission, the payment of expenses to members of the commission required by this subdivision shall not be stayed.

In the event that the decision of the commission is finally reversed or vacated by a court of competent jurisdiction, then either the state, having paid the commission members' expenses, shall be entitled to reimbursement from the governing board for such expenses, or the governing board, having paid such expenses, shall be entitled to reimbursement from the state

Additionally, either the employee, having paid a portion of the expenses of the hearing, including the cost of the hearing officer, shall be entitled to reimbursement from the governing board for such expenses, or the governing board, having paid its portion and the employee's portion of the expenses of the hearing, including the cost of the hearing officer, shall be entitled to reimbursement from the employee for that portion of such expenses

SEC 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these

sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 667

An act to amend Sections 49, 217, 301, 801, 1008, 1508.5, 1639, 2520, 2602, 4061, 6892, 6894, 10334, 15242, 15243, 15260, 15264, 15272, 17101, 17167, 22004, 22603, 22808, 23544, 25301, 27020, and 27022 of, to add Sections 60, 1504.5, 1513.1, 3524, 10208.5, and 23302.5 to, to add Chapter 8 (commencing with Section 7300) to Division 6 of, to repeal Sections 57 and 17051, and to repeal and add Section 17050 of, to amend the heading of Chapter 4 (commencing with Section 15300) of Division 11 and the heading of Division 14 (commencing with Section 22000) of, the Elections Code, to amend Section 7120 of the Harbors and Navigation Code, to amend Sections 32002 and 32100.4 of the Health and Safety Code, and to amend Sections 21926, 30830, and 30831 of, and to repeal Section 60142 of, the Water Code, relating to elections.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979.]

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

SECTION 1. Section 49 of the Elections Code is amended to read:

49. Whenever any candidate files a declaration of candidacy, nomination paper, or any other paper evidencing an intention to be a candidate for any public office at any election in this state with either the Secretary of State or a county clerk, the candidate shall by such filing irrevocably appoint the Secretary of State or the county clerk with whom the filing is made and their successors in office the candidate's attorneys upon whom all process in any action or proceeding against him or her concerning his or her candidacy or the election laws may be served with the same effect as if the candidate had been lawfully served with process. The appointment shall continue until the day of the election.

If in any action or proceeding arising out of or in connection with any matters concerning his or her candidacy or the election laws it is shown by affidavit to the satisfaction of a court or judge that personal service of process against the candidate cannot be made with the exercise of due diligence, the court or judge may make an order that the service be made upon the candidate by delivering by hand to the Secretary of State or the county clerk appointed as the candidate's attorney for service of process, or to any person employed in his or her office in the capacity of assistant or deputy, one copy of the process for the defendant to be served, together with

a copy of the order authorizing such service. Service in this manner constitutes personal service upon the candidate. The Secretary of State and the county clerks of all counties shall keep a record of all process served upon them under this section, and shall record therein the time of service and their action with reference thereto.

Upon the receipt of any such service of process the Secretary of State or the county clerk shall immediately give notice of the service of the process to the candidate by forwarding the copy of the process to the candidate at the address shown on his or her declaration, nomination paper, affidavit, or other evidence of intention to be a candidate filed with that officer, by special delivery registered mail with request for return receipt.

SEC. 2. Section 57 of the Elections Code is repealed.

SEC. 3. Section 60 is added to the Elections Code, to read:

60. Notwithstanding any other provision of law, if the last day for the performance of any act provided for or required by this code shall be a holiday, as defined in Chapter 7 (commencing with Section 6700) of Division 7 of Title 1 of the Government Code, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

SEC. 4 Section 217 of the Elections Code is amended to read:

217. A person duly registered as a voter in any precinct in California who removes therefrom within 28 days prior to an election shall, for the purpose of such election, be entitled to vote in the precinct from which the person so removed until the close of the polls on the date of such election.

SEC. 5. Section 301 of the Elections Code is amended to read:

301. No person shall be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered to the county clerk and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county clerk or on the 29th day before an election to be held in the registrant's precinct if (a) the affidavit is executed on or before the 29th day prior to the election, and (b) the affidavit is received by the county clerk by mail after the 29th day and by the fourth day after the 29th day before the election; provided, however, that an affidavit which is postmarked after the 29th day before an election shall not be deemed effective for purposes of this section

For purposes of verifying signatures on a recall, initiative, or referendum petition or signatures on a nomination paper or any other election petition or election paper, a properly executed affidavit of registration shall be deemed effective for such verification purposes if (a) the affidavit is signed on the same date or a date prior to the signing of such petition or paper; and (b) the affidavit is received by the county clerk on or before the date on which the petition or paper is filed.

Notwithstanding any other provision of law to the contrary, the affidavit of registration required under the provisions of this chapter

shall not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

SEC. 6 Section 801 of the Elections Code is amended to read:

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

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

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

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

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

SEC. 7 Section 1008 of the Elections Code is amended to read·

1008. The official shall deliver to each qualified applicant.

(a) The ballot for the precinct in which he resides. In primary elections this shall be the ballot for the party with which he is affiliated or, when appropriate, a nonpartisan ballot

(b) All supplies necessary for the use and return of the ballot

No officer of this state may make any charge for services rendered to any voter under the provisions of this chapter.

SEC. 8. Section 1504.5 is added to the Elections Code, to read:

1504 5. Property exempted from taxation pursuant to Section 214 of the Revenue and Taxation Code shall be made available free of charge to the county clerk for use as a polling place pursuant to Section 213 5 of the Revenue and Taxation Code.

SEC 9 Section 1508 5 of the Elections Code is amended to read.

1508 5 At any election to fill a vacancy in the office of State Senator, Member of the Assembly, or Representative in Congress in a county which has not adopted a voting system as defined in Section 14009 for use in statewide elections, there shall not be more than

three precincts consolidated and they shall be formed to contain not more than 600 voters. However, in no event may a consolidated precinct in such election exceed 1,000 voters.

SEC. 10. Section 1513.1 is added to the Elections Code, to read:

1513.1. Precinct boundary changes occurring less than 74 days before an election shall not be effective for purposes of that election. Voters residing within an area affected by a boundary change, occurring within 74 days before an election, shall vote at the ensuing election in all respects as if no boundary change had occurred.

SEC. 11. Section 1639 of the Elections Code is amended to read:

1639. The county clerk of any county, in appointing members of the several precinct boards to serve in the direct primary and general elections under the provisions of this code, shall permit the county central committee of each qualified political party to nominate for appointment to the precinct board a member of that party who is registered and resident in that precinct, such nomination to be made in writing to the county clerk not less than 90 days before the election for which the nomination is made. In making appointments to precinct boards from nominations submitted by political parties, the county clerk shall give preference to the nominee of any qualified political party with at least 10 percent of the registered voters in the precinct for which the nomination is made.

SEC. 12. Section 2520 of the Elections Code is amended to read:

2520. Except as provided in Sections 2604 and 23509.5, no election shall be held on any day other than a Tuesday nor shall any election be held on the day before or the day after a state holiday.

SEC. 13. Section 2602 of the Elections Code is amended to read:

2602. Except as otherwise provided, the regular election to select governing board members in any school district or community college district shall be held on the first Tuesday after the first Monday in November of each odd-numbered year.

SEC. 14. Section 3524 is added to the Elections Code, to read:

3524. An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by registered voters equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the voters for all candidates for Governor at the last gubernatorial election preceding the issuance of the title and summary for the initiative measure by the Attorney General.

SEC. 15. Section 4061 of the Elections Code is amended to read:

4061. Article 1 (commencing with Section 4000) and Article 2 (commencing with Section 4050) of this chapter do not apply to cities having a charter adopted under the provisions of Section 3 of Article XI of the Constitution, and having in such charter any provision for the direct initiation of ordinances by the voters; nor to proceedings had for the improvement of streets in or rights-of-way owned by

cities, the opening or closing of streets, the changing of grades or the doing of other work, the cost of which or any portion of which is to be borne by special assessments upon real property.

SEC 16 Section 6892 of the Elections Code is amended to read.

6892 Nomination papers shall be left with the county clerk for examination and filed with the Secretary of State pursuant to the time limitations set forth in Section 6833.

SEC 17. Section 6894 of the Elections Code is amended to read.

6894. Within 10 days after any nomination papers are left for examination, the county clerk shall examine them and affix to them a certificate reciting that he has examined them, and stating the number of names which have not been marked "not sufficient." All nomination papers which are required to be filed in the office of the Secretary of State shall be forwarded by the county clerk to the Secretary of State, who shall receive and file them.

SEC 18 Chapter 8 (commencing with Section 7300) is added to Division 6 of the Elections Code, to read:

CHAPTER 8. WRITE-IN CANDIDATES

7300. Every person who desires to be a write-in candidate and have his or her name as written on the ballot of an election counted for a particular office shall file·

(a) A statement of write-in candidacy which shall contain the following information·

(1) Candidate's name.

(2) Residence address.

(3) A declaration stating that he or she is a write-in candidate

(4) The title of the office for which he or she is running.

(5) The party nomination which he or she seeks, if running in a primary election

(6) The date of the election.

(b) The requisite number of signatures on the nomination papers, if any, required pursuant to Sections 6495, 22836, 23512, or in the case of a special district not subject to the Uniform District Election Law, the number of signatures required by the principal act of the district.

7301. For write-in candidates who require certification by the Secretary of State, the statement and nomination papers shall be delivered to the election official responsible for the conduct of the election, no later than the 14th day prior to the election.

For write-in candidates not required to be certified by the Secretary of State, the statement and nomination papers shall be filed no later than the eighth day prior to the election.

7302 The nomination papers for a write-in candidate shall be substantially in the same form as set forth in Section 6494.

The document in which circulators are appointed by the write-in candidate shall be designated as set forth in Section 6498

7303 Signers of nomination papers for write-in candidates shall be voters in the district or political subdivisions in which the

candidate is to be voted on. In addition, if the candidate is seeking a party nomination for an office, the signers shall also be affiliated with the party whose nomination is sought.

7304. No fee or charge shall be required of a write-in candidate except, in the case of a candidate for city office, as provided in Section 22843.

SEC. 19. Section 10208.5 is added to the Elections Code, to read:

10208.5. Whenever a foreign translation of the ballot is required by the Voting Rights Act of 1965, as amended by Public Law 94-73, to appear on the ballot as well as the English language version, the ballot, including a ballot reference page or pages as specified in Section 10330, may be so designed as to place the foreign translation to the right of the voting square.

SEC. 20. Section 10334 of the Elections Code is amended to read:

10334. Each ballot card shall have two stubs attached. The stubs shall be separated from the ballot card and from each other by perforated lines so that they may be readily detached. One stub shall have the serial ballot number printed on it, and shall be detached from the remainder of the ballot before it is handed to the voter. The second stub shall have printed on it: (a) the same ballot serial number; (b) the words "This ballot stub shall be removed by a precinct board member and handed to the voter before the ballot is placed in the ballot container"; (c) the words "OFFICIAL BALLOT" in uppercase boldface type no smaller than 12-point; (d) in primary elections, the party name, e.g., "Democratic Party," or the words "Nonpartisan Ballot," as applicable; (e) the name of the county; (f) the date of the election; and (g) where not otherwise provided, instructions to the voter on how to mark the ballot with the marking device, how to vote for a candidate whose name is not printed on the ballot, and how to secure an additional ballot card if the ballot card is spoiled or marked erroneously. If the information in items (a) through (g) must also appear in one or more languages other than English under the provisions of the Voting Rights Act of 1965 as extended by Public Law 94-73 and there is insufficient room for all the information to be set forth in all the required languages while at the same time appearing in a type size sufficiently large to be readable, the official in charge of the election may delete the following items of information in the order listed until there is sufficient room: item (e) and item (f). In addition to the instructions to voters printed on the ballot or ballot stub, there shall be displayed in each voting booth instructions to voters substantially in the same form and wording as appears on paper ballots. Precinct numbers may also be placed on the ballot.

SEC. 21. Section 15242 of the Elections Code is amended to read:

15242 The precinct board, or if the election official so directs, a board, or boards, at a central counting place shall examine the ballots and count the votes cast for candidates whose names have been written in. If a separate write-in ballot is used, the board shall number each write-in ballot which contains a write-in vote, starting

with the number 1, and the same number shall be placed on the ballot card in the place designated for this purpose. Before any such vote is counted the board shall examine the ballot to ascertain whether the write-in vote is valid, and count it only if it is found to be valid Neither a vote registered by punching or slotting nor a write-in vote shall be counted if the voter has marked his ballot by a combination of punching or slotting the ballot card and writing in, a choice of more names than there are candidates to be elected or nominated for any office All valid write-in votes shall be tabulated and certified to the clerk on forms provided for this purpose, and the write-in votes shall be added to the results of the count of the ballots at the counting place and be included in the official returns for the precinct

SEC 22. Section 15243 of the Elections Code is amended to read.

15243. The precinct board shall group voted ballot cards and voted separate write-in ballots as directed by the clerk and place them in containers. The board shall also place spoiled and void ballots and voided write-in ballots, if any, in containers as directed by the clerk, all of which, along with the containers for voted ballot cards shall be placed in one or more boxes which shall then be sealed and delivered as soon as possible to the receiving centers or central counting places with the unused ballots, supplies, and other materials as directed by the clerk.

SEC. 23. Section 15260 of the Elections Code is amended to read

15260 An election official may provide that the ballots cast in any precinct for which the system provided for in this chapter has been adopted shall be counted at the polls or at a central counting place, or places, as provided in this chapter

SEC 24. Section 15264 of the Elections Code is amended to read

15264 The vote tabulating device may be located at any place within the state approved by the election official of the county or other political subdivision using the device The same device may be jointly owned, borrowed, leased or used by two or more counties, cities or other political subdivisions to tabulate ballots cast in any election

SEC 25 Section 15272 of the Elections Code is amended to read

15272. The clerk may count absent voter ballots by the use of a voting machine or vote tabulating device subject to the following:

a All interested persons shall be afforded the opportunity to be present

b. No vote shall be counted unless there are at least three persons observing the counting procedure

c The voting machine or device shall be inspected, all of its registering counters set at zero (000) and locked

d The clerk may appoint persons to assist in the counting of these ballots No person shall be appointed who is not fully qualified to perform his or her duties

e No vote shall be registered in the voting machine or device unless all persons present are in agreement that the voting machine

or device reflects exactly the vote of the ballot being counted

f When the votes of all absent voter ballots have been registered in the voting machine or device, the results of the votes cast shall be tabulated in the same manner as the results from other voting machines or devices

SEC 26 The heading of Chapter 4 (commencing with Section 15300) of Division 11 of the Elections Code is amended to read

CHAPTER 4 ELECTIONS USING VOTING MACHINES

SEC 27 Section 17050 of the Elections Code is repealed

SEC. 28. Section 17050 is added to the Elections Code, to read

17050 Whenever the ballots at any election or from any precincts are to be tallied at a central place and not at the precincts, the clerk or secretary of the jurisdiction conducting the election shall specify the public place to be used and give notice thereof as follows.

(a) By at least one publication in a newspaper of general circulation published in the jurisdiction where the election is to be held, provided such publication is made at least 10 days before the day of the election

(b) If a newspaper of general circulation is not published in that jurisdiction, then by prominently posting the notice in the office of the clerk for at least 10 days before the day of the election

SEC 29 Section 17051 of the Elections Code is repealed

SEC 30 Section 17101 of the Elections Code is amended to read

17101 No name written upon a ballot in any election shall be counted for an office or nomination unless the candidate whose name has been written on the ballot has complied with the requirements of Chapter 8 (commencing with Section 7300) of Division 6

SEC 31 Section 17167 of the Elections Code is amended to read

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, the House of Representatives of the United States, the Senate of the United States, or delegates to a national convention or on any state measure

SEC 32 The heading of Division 14 (commencing with Section 22000) of the Elections Code is amended to read

DIVISION 14. LOCAL ELECTIONS AND CONSOLIDATED ELECTIONS

SEC. 33. Section 22004 of the Elections Code is amended to read:

22004. A county may by ordinance or resolution limit campaign contributions in county elections.

SEC. 34 Section 22603 of the Elections Code is amended to read:

22603. The provisions of Chapter 8 (commencing with Section 7300) of Division 6 and Chapter 9 (commencing with Section 17100) of Division 12, relating to write-in votes, shall apply to municipal elections held in general law cities.

SEC. 35. Section 22808 of the Elections Code is amended to read:

22808 A city may by ordinance or resolution limit campaign contributions in municipal elections.

SEC. 36. Section 23302 5 is added to the Elections Code, to read:

23302.5. Notwithstanding any other provision of the law, whenever other elections are consolidated with the statewide general election, the period for the filing of nomination documents by candidates in elections consolidated with the general election shall commence on the 113th day prior to the election. The nomination documents shall be filed not later than 5 p.m. on the 88th day prior to the general election in the office of the county clerk during regular office hours.

SEC. 37 Section 23544 of the Elections Code is amended to read:

23544 A governing body of a district may by resolution limit campaign contributions in elections to district offices.

SEC 38. Section 25301 of the Elections Code is amended to read:

25301. Except in the case of a judicial office filled in accordance with subdivision (d) of Section 16 of Article VI of the Constitution, every candidate for a judicial office, not more than 15 nor less than 5 days prior to the first day on which his nomination papers may be circulated and signed or may be presented for filing, shall file in the office of the county clerk in which his nomination papers are required to be filed or left for examination, a written and signed declaration in duplicate of his intention to become a candidate for that office on a form to be supplied by the county clerk. A candidate for a numerically designated judicial office shall state in his declaration for which office he intends to become a candidate. A copy of each declaration of intention filed in accordance with this article, except those for municipal and justice court offices, shall be immediately forwarded by the county clerk to the Secretary of State. This section shall apply to all judicial offices whether numerically designed or not.

SEC 39. Section 27020 of the Elections Code is amended to read:

27020 The notice of intention shall contain all of the following:

(a) The name and title of the officer sought to be recalled.

(b) A statement, not exceeding 200 words in length, of the reasons for the proposed recall

(c) The names and business or residence addresses of at least one

but not more than five proponents of the recall.

(d) The provisions of Section 27023.

SEC. 40 Section 27022 of the Elections Code is amended to read

27022 The notice, except the provisions required by subdivision (d) of Section 27020, shall be published at the proponents' expense pursuant to Section 6061 of the Government Code. If such publication is not possible the notice, except the provisions required by subdivision (d) of Section 27020, shall be posted in at least three public places within the jurisdiction of the officer to be recalled

SEC 41 Section 32002 of the Health and Safety Code is amended to read:

32002 The manner of formation of local hospital districts, and the conducting of elections, unless otherwise provided herein shall be as in the manner provided, respectively, by Chapter 1 (commencing with Section 58000) of Division 2 of Title 6 of the Government Code and Part 3 (commencing with Section 23500) of Division 14 of the Elections Code. Except as provided in this division, all of the provisions of such chapter and part are hereby incorporated in this division by reference and shall have the same effect and force as if fully set forth herein. In addition to all other requirements regarding formation of hospital districts, no hearing upon the petition to form a hospital district shall be held until there shall have been filed with the supervising authority a certificate of need issued by the state department pursuant to Part 1 5 (commencing with Section 437) of Division 1

SEC 42 Section 7120 of the Harbors and Navigation Code is amended to read

7120 Ordinances may be enacted by and for any district by initiative in the same manner and with the same effect as ordinances of counties under the provisions of Article 1 (commencing at Section 3700) of Chapter 2 of Division 5 of the Elections Code and the terms used therein shall have the following meanings:

(a) "County" shall mean district

(b) "Board of supervisors" shall mean board

(c) "County clerk" shall mean secretary.

SEC 43. Section 32100 4 of the Health and Safety Code is amended to read

32100 4. If, on the 74th day prior to the day fixed for the hospital district general election, only one person has been nominated for each office of member of the board of directors to be filled at that election, or no one has been nominated for such office, and if a petition signed by 5 percent of the qualified electors in the district, requesting that the hospital district general election in the district be held, has not been presented to the board of directors of the district, said board of directors shall by resolution entered in their minutes order that an election shall not be held Where directors are elected at large, or where directors are elected by zones, no election shall be held in each zone where no one or only one person has been nominated if a petition signed by 5 percent of the qualified electors

in the zone, requesting that the election in the zone be held, has not been presented to the board of directors of the district. When an election is not to be held, the board shall appoint, to the office or offices the person or persons, if any, who have been nominated. If no person has been nominated for any office, the board shall appoint any qualified person to the office prior to the date when the election would have been held. The person appointed shall qualify and take office and serve exactly as if elected at a hospital district general election.

In such instances notices shall be posted in three public places in the district at least 10 days before the date fixed for the election, which notices shall state that no election is to be held and that the board will appoint, or has appointed, a member or members of the board of directors to serve for the ensuing term

SEC. 44. Section 21926 of the Water Code is amended to read:

21926. Notice of a bond election shall be given by publication of the notice, in some newspaper published in the office county, once a week for at least three successive weeks.

SEC. 45 Section 30830 of the Water Code is amended to read:

30830. Ordinances may be passed by voters in accordance with Article 1 (commencing with Section 3700) of Chapter 2 of Division 5 of the Elections Code.

SEC. 46. Section 30831 of the Water Code is amended to read·

30831. Ordinances may be disapproved and thereby vetoed by voters by proceeding in accordance with Article 2 (commencing with Section 3750) of Chapter 2 of Division 5 of the Elections Code.

SEC 47. Section 60142 of the Water Code is repealed.

CHAPTER 668

An act to amend Section 45125 of the Education Code, relating to school districts.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979.]

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

SECTION 1. Section 45125 of the Education Code is amended to read:

45125 The governing board of any school district shall, within 10 working days of date of employment, require each person to be employed, or employed in, a position not requiring certification qualifications to have two 8″x 8″ fingerprint cards bearing the legible rolled and flat impressions of such person's fingerprints together with a personal description of the applicant or employee, as the case may be, prepared by a local public law enforcement agency having jurisdiction in the area of the school district, which agency shall

transmit such cards, together with the fee hereinafter specified, to the Department of Justice; except that any district, or districts with a common board, may process the fingerprint cards in the event the district so elects. "Local public law enforcement agency" as used herein includes any school district and as used in Section 45126 requires the Department of Justice to provide to any such district, upon application, information pertaining only to applicants for employment by the district, including applicants who are employees of another district, and persons already employed by the district Upon receiving such identification cards, the Department of Justice shall ascertain whether the applicant or employee has been arrested or convicted of any crime insofar as such fact can be ascertained from information available to the department and forward such information to the local public law enforcement agency submitting the applicant's or employee's fingerprints at the earliest possible date At its discretion, the Department of Justice may forward one copy of the fingerprint cards submitted to any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the applicant or employee

The governing board of each district shall forward a request to the Department of Justice indicating the number of current employees who have not completed the requirements of this section The Department of Justice shall direct when such cards are to be forwarded to it for processing which in no event shall be later than two years from the date of enactment of this section. Districts which have previously submitted identification cards for current employees to either the Department of Justice or the Federal Bureau of Investigation shall not be required to further implement the provisions of this section as it applies to those employees

A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury or forfeiture of bail is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under the provisions of Section 1203 4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information

The governing board shall provide the means whereby the identification cards may be completed and shall charge a fee determined by the Department of Justice to be sufficient to reimburse the department for the costs incurred in processing the application The amount of such fee shall be forwarded to the Department of Justice, with two copies of applicant's or employee's fingerprint cards The governing board may collect an additional fee not to exceed two dollars ($2) payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards Such additional fees shall be transmitted to the city or county treasury If an applicant is subsequently hired by the board within 30 days of the application, such fee may be reimbursed to the applicant Funds not reimbursed applicants shall

be credited to the general fund of the district If the fingerprint cards forwarded to the Department of Justice are those of a person already in the employ of the governing board, the district shall pay the fee required by this section, which fee shall be a proper charge against the general fund of the district, and no fee shall be charged the employee

Notwithstanding the foregoing, substitute and temporary employees, employed for less than a school year, may be exempted from these provisions. The provisions of this section shall not apply to a district, or districts with a common board, which has an average daily attendance of 400,000 or greater, or to a school district wholly within a city and county, unless the governing board of such district or districts, by rule, provides for adherence to this section

---

CHAPTER 669

An act to amend Section 44235 of the Education Code, relating to teaching credentials, and making an appropriation therefor

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. Section 44235 of the Education Code is amended to read.

44235. Fees shall be levied by the commission for the issuance and renewal of teaching and related credentials The fees shall be set by the commission in such a manner that revenues sufficient to support all activities and functions, including continuing research and evaluation activities, shall be produced. In no case shall a fee exceed thirty dollars ($30) without express legislative approval

---

CHAPTER 670

An act relating to Mono Lake, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

The people of the State of California do enact as follows

SECTION 1 The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the California Environmental Protection Program Fund to the Department of Fish and Game for expenditure during the 1979–80 and 1980–81 fiscal years for the best available temporary measures for protecting and maintaining the Negit Island gull rookery, including dredging a channel between the island and the mainland, fencing predators'

routes of access to the island, and other predator control practices. It is the intent of the Legislature that the department give preference to dredging as a means of protecting and maintaining the gull rookery, to the extent that dredging is feasible.

SEC 2. The Department of Fish and Game shall report to the Legislature on or before December 1, 1980, on the expenditure of funds and the measures undertaken pursuant to this act, and on the need for additional work.

SEC. 3. The Secretary of the Resources Agency shall report to the Legislature not later than June 1, 1980, on the proposals of the Interagency Task Force on Mono 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:

In order to protect the gull rookery on Negit Island within Mono Lake from predators, temporary measures must be taken to isolate the island from the mainland Such measures must be completed the fall of 1979 so that the birds may return to nest there. In order, therefore, to provide effective protection to unique wildlife resources within Mono Lake, it is necessary that this act go into immediate effect.

CHAPTER 671

An act to add Section 1203.075 to the Penal Code, relating to probation.

[Approved by Governor September 14, 1979. Filed with Secretary of State September 14, 1979.]

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

SECTION 1. Section 1203 075 is added to the Penal Code, to read:

1203.075. Notwithstanding the provisions of Section 1203:

(a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any person who, with the intent to inflict such injury, personally inflicts great bodily injury on the person of another in the commission or attempted commission of any of the following crimes

(1) Murder

(2) Assault with intent to commit murder, in violation of Section 217

(3) Robbery, in violation of Section 211

(4) Kidnapping, in violation of Section 207

(5) Kidnapping for ransom, extortion or robbery, in violation of

Section 209

(6) Burglary of the first degree, as defined in Section 460.

(7) Rape by force or violence, in violation of subdivision (2) of Section 261.

(8) Rape by threat of great and immediate bodily harm, in violation of subdivision (3) of Section 261

(9) Assault with intent to commit rape, sodomy, or robbery, in violation of Section 220.

(10) Escape, in violation of Section 4530 or 4532

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code

(3) As used in subdivision (a), "great bodily injury" means "great bodily injury" as defined in Section 12022 7

CHAPTER 672

An act to amend and repeal Section 25278 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. Section 25278 of the Vehicle Code is amended to read·

25278 (a) The City of Los Angeles may require, by ordinance, ice cream trucks, while actually engaged in vending ice cream products on a street in a residence district, to display flashing amber warning lamps to the front and rear and to activate a caution arm only when parked for the purpose of vending such products on a street in a residence district within the city. As used in this section, "parked" means parked in accordance with the requirements of Chapter 9 (commencing with Section 22500) of Division 11. The ordinance shall prohibit the display of such lamps and the activation of such arm in any circumstance not permitted by this section

(b) If the ordinance authorized by subdivision (a) is adopted, the driver of any vehicle, upon meeting or overtaking from either direction an ice cream truck displaying flashing amber warning

lamps and with a caution arm activated within a residence district of the City of Los Angeles, shall immediately slow the vehicle to a speed of 10 miles per hour, or less, before passing the ice cream truck, and shall yield the right-of-way to any pedestrian in the immediate vicinity of the truck, and may proceed past the truck only with caution.

(c) Any ice cream truck that is subject to the ordinance authorized by subdivision (a) may be operated outside the City of Los Angeles without removing the lamps or caution arm if neither the lamps nor caution arm are used when the truck is so operated

(d) The City of Los Angeles may include in the ordinance such other provisions as may be necessary to reduce injuries to children in the vicinity of ice cream trucks.

(e) The City of Los Angeles, or any public or private agency or person it designates, shall conduct an evaluation of the implementation of this section and shall report its findings to the Governor and the Legislature regarding the desirability of implementing statewide the requirements imposed pursuant to this section

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 enacted before January 1, 1982, 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 the provisions of this act may continue in effect beyond January 1, 1980, it is necessary that this act take effect immediately.

CHAPTER 673

An act to amend Section 27491.46 of the Government Code, relating to dead bodies

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. Section 27491.46 of the Government Code is amended to read:

27491 46 (a) The coroner shall have the right to retain pituitary glands solely for transmission to a university, for use in research or the advancement of medical science, in those cases in which the coroner has performed an autopsy pursuant to this chapter, and during a 48-hour period following such autopsy the body has not been claimed and the coroner has not been informed of any relatives of

the decedent

(b) In the course of any autopsy performed by the coroner, the coroner may remove the pituitary gland from the body for transmittal to any public agency for use in manufacturing a hormone necessary for the physical growth of persons who are, or may become, hypopituitary dwarfs However, the pituitary gland shall not be removed or retained under the authority of this subdivision if the person having the right to control disposition of the decedent's remains, as provided in Section 7100 of the Health and Safety Code, notifies the coroner prior to the autopsy that removal of the decedent's pituitary gland would be contrary to the religious beliefs of such person or of the decedent at the time of his or her death If the person having the right to control disposition of the remains is known to the coroner, the coroner shall notify such person of the coroner's intent to remove the pituitary gland and the basis upon which such person may refuse to permit the same.

Nothing in this subdivision shall supersede the terms of any gift made pursuant to Chapter 3 5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code

---

CHAPTER 674

An act to amend Sections 82019, 87200, 87207, and 87302 of, to add Article 5 (commencing with Section 87500) to Chapter 7 of Title 9 of, and to repeal Section 81005 2 of, the Government Code, relating to financial disclosure

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 81005 2 of the Government Code is repealed

SEC 2 Section 82019 of the Government Code is amended to read

82019 "Designated employee" means any officer, employee, member or consultant of any agency whose position with the agency,

(a) Is exempt from the state civil service system by virtue of subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the Constitution, unless the position is elective or solely secretarial, clerical or manual,

(b) Is elective, other than an elective state office, or

(c) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest

"Designated employee" does not include an elected state officer

or any unsalaried member of any board or commission which serves a solely advisory function.

SEC. 3 Section 87200 of the Government Code is amended to read.

87200. This article is applicable to elected state officers, judges of courts of record, members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, members of the Fair Political Practices Commission, members of the California Coastal Commission, members of planning commissions, members of the board of supervisors, district attorneys and chief administrative officers of counties, mayors, city managers, chief administrative officers and members of city councils of cities, members of each of the six regional coastal commissions, and to candidates for any of these offices at any election.

SEC. 4 Section 87207 of the Government Code is amended to read·

87207 (a) When income is required to be reported under this article, the statement shall contain, except as provided in subsection (b)·

(1) The name and address of each source of income aggregating two hundred fifty dollars ($250) or more in value, or twenty-five dollars ($25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

(2) A statement whether the aggregate value of income from each source was greater than one thousand dollars ($1,000), and whether it was greater than ten thousand dollars ($10,000);

(3) A description of the consideration, if any, for which the income was received,

(4) In the case of a gift, the amount and the date on which the gift was received

(b) When income of a business entity, including income of a sole proprietorship, is required to be reported under this article, the statement shall contain:

(1) The name, address, and a general description of the business activity of the business entity;

(2) In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars ($1,000);

(3) In the case of a business entity not covered by paragraph (2), the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000)

SEC 5 Section 87302 of the Government Code is amended to read

87302 Each Conflict of Interest Code shall contain the following provisions

(a) Specific enumeration of the positions within the agency which

involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest;

(b) Requirements that each designated employee file annual statements and a statement upon leaving office disclosing reportable investments, interests in real property and income. The Conflict of Interest Code shall set forth for each position or category of positions enumerated under subsection (a) of this section the specific types of investments, interests in real property and income which are reportable and the manner of reporting each item. An investment, interest in real property or income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his position The manner of reporting reportable items shall be substantially equivalent to the requirements of Article 2 of this chapter. The first statement filed under this section by a designated employee shall disclose any reportable investments and interests in real property. Statements shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code Thereafter, new civil service designated employees shall file statements within 30 days after assuming office All other new designated employees shall file statements not more than 10 days after assuming office or, if subject to State Senate confirmation, 10 days after being appointed or nominated. Every person who leaves an office shall file, within 30 days of leaving the office, a statement disclosing reportable investments, interests in real property and income The provisions of the Conflict of Interest Code adopted under this subsection shall not be applicable to any designated employee who is covered by Article 2 of this chapter

(c) Specific provisions setting forth any circumstances under which designated employees or categories of designated employees must disqualify themselves from making or participating in the making of any decision Disqualification shall be required by the Conflict of Interest Code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision No designated employee shall be required to disqualify himself with respect to any matter which could not legally be acted upon or decided without his participation.

SEC 6 Article 5 (commencing with Section 87500) is added to Chapter 7 of Title 9 of the Government Code, to read·

Article 5 Filing

87500 Statements of economic interests required by this chapter shall be filed as follows

(a) Statewide elected officer—one original with the agency which shall make and retain a copy and forward the original to the

commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(b) Candidates for statewide elective office—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each such statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the Board of Equalization—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the clerk of the county in which the candidate resides. No more than one copy of each such statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney and member of the board of supervisors—one original with the county clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(f) Persons holding the office of city manager and candidates for and persons holding the office of city councilman and mayor—one original with the city clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, members of the California Coastal Commission and members of the six regional coastal commissions—one original with the agency which shall make and retain a copy and forward the original to the commission which shall be the filing officer

(h) Members of the Fair Political Practices Commission—one original with the commission which shall make and retain a copy and forward the original to the office of the Attorney General which shall

be the filing officer

(i) Judges of courts of record—one original with the clerk of the court who shall make and retain a copy and forward the original to the commission which shall be the filing officer

(j) Heads of agencies, members of boards or commissions not under a department of state government, or members of boards or commissions not under the jurisdiction of a local legislative body, one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body which shall be the filing officer. In its discretion, the code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency

(k) Persons not mentioned above—one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code

SEC 7 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 8 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 repeal not been effected

---

CHAPTER 675

An act to amend Sections 39802 and 39803 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 39802 of the Health and Safety Code is amended to read

39802 The state board may subvene up to one dollar ($1) for every dollar budgeted for use by any of the following:

(a) A district whose boundaries include an entire air basin

(b) Districts whose boundaries together include an entire air basin and who are parties to one joint powers agreement or other enforceable agreement which provides for all of the following

(1) Uniform rules and regulations among all districts, excluding administrative rules and regulations

(2) At least four meetings per year of the basinwide air pollution control council formed under Section 40900, or an equivalent procedure for basinwide consideration of policy matters

(3) Suitable sharing of qualified air pollution personnel and

equipment.

Subventions under this section shall not exceed twenty-three cents ($0.23) per capita, but shall not be less than eighteen thousand dollars ($18,000) for any district, if the district provides the required matching funds. A subvention made pursuant to Section 39803 shall preclude subvention under this section

SEC. 2 Section 39803 of the Health and Safety Code is amended to read·

39803. In air basins where funds are not subvened pursuant to Section 39802, the state board may subvene up to two dollars ($2) for every three dollars ($3) budgeted by a district Subventions under this section shall not exceed eighteen and four-tenths cents ($0 184) per capita, but shall not be less than twelve thousand dollars ($12,000) for any district, if the district provides the required matching funds

---

CHAPTER 676

An act to amend Section 40170 of the Public Utilities Code, and to add Sections 195, 322 1, and 355 1 to the Streets and Highways Code, relating to transportation.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. Section 40170 of the Public Utilities Code is amended to read·

40170 The purchase of all services, supplies, equipment, and materials, and construction of facilities and works, shall be done in the same manner, procedure and subject to the same limitations applicable to the County of Orange by the state law, now or as may hereafter be amended

SEC. 1 5 Section 195 is added to the Streets and Highways Code, to read.

195 (a) The California Transportation Commission, in complete cooperation with the Orange County Transportation Commission and the department shall prepare a report which identifies the transportation capital needs of Orange County, including specific projects or programs necessary to meet these needs The transportation needs shall include state highway facilities, federal-aid urban routes, and fixed guideway transit systems. The report shall be based on data submitted by the Orange County Transportation Commission and existing data and comments on the Orange County Transportation Commission data submitted by the department

(b) In preparing the report, the California Transportation Commission shall also consider the impact of the transportation

needs of Orange County on the County Group No 2, as defined in Section 187. The department, each county in County Group No. 2, each transportation planning agency, county transportation commission, and metropolitan transit development board, may provide comments on the impact of the report's recommendations. These comments shall be included in the report.

(c) The report, along with the recommendations and review, including all data and information, shall be submitted to the Legislature no later than March 1, 1980

SEC. 2 Section 322.1 is added to the Streets and Highways Code, to read:

322 1. The department shall take the necessary action to remove that portion of Route 22 between Route 405 and Route 55 from the federal-aid urban system and place it in the federal-aid primary system.

SEC. 3. Section 355 1 is added to the Streets and Highways Code, to read·

355 1 The department shall take the necessary action to remove Route 55 between Newport Beach and Route 91 in Santa Ana Canyon from the federal-aid urban system and place it in the federal-aid primary system

SEC 4 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 677

An act to amend Sections 6509, 6511.6, 6524, 6537, 6537 1, 6546, 6546 6, 6548, 6548.5, 6550, 6560, 6560 5, 6633, 6635.2, and 7332 of, to add Sections 6545, 6545 1, 6546 1, and 6546.7 to, and to repeal Sections 6545 and 6561 of, the Business and Professions Code, relating to business and professions

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. Section 6509 of the Business and Professions Code is amended to read

6509 For the purpose of enforcing this chapter, any member of the board, except the public members, or, except as provided by Section 159 5, its agents or assistants may enter into and inspect any

barbershop or college at any time during business hours or at any time when the practice of barbering or instruction in such practice is being carried on

SEC. 2. Section 6511 6 of the Business and Professions Code is amended to read:

6511 6 All examinations to determine fitness to practice as a barber or to serve as an instructor in a barber college shall be prepared by or under the direction of the board but shall be administered by examiners-field representatives appointed by the director, pursuant to the State Civil Service Act, Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code, after consultation with and advice from the board.

The board shall establish standards and procedures governing the administration and grading of examinations that will reasonably carry out the purposes of this section and shall exercise the supervision necessary to assure compliance therewith.

An examiner-field representative shall have been engaged in conducting examinations under this chapter to determine fitness to practice as a barber or to serve as an instructor in a barber college for at least six months within the one year immediately prior to his appointment, or shall be a registered barber who has engaged in the practice of barbering in this state for at least one year immediately prior to his appointment

SEC. 3. Section 6524 of the Business and Professions Code is amended to read:

6524. It is unlawful for any person to serve as an apprentice under a registered barber without a certificate of registration as a registered apprentice issued by the board

"Apprentice," as used in this chapter, shall mean any person who is engaged in learning or acquiring the skills and knowledge of a barber in a licensed barbershop under the supervision of a registered barber approved by the board

SEC 4. Section 6537 of the Business and Professions Code is amended to read

6537 No college shall enroll or admit any student in a refresher course thereof, where the refresher course is for the purpose of qualifying persons to pass the examination conducted by the board to determine fitness to practice barbering, unless the student prepares, in duplicate, a verified application, obtained by the student or the college from the board, showing that there has been a compliance with each of the following:

(a) The applicant has completed the proper grade in school as provided in Section 6546.5 or has an equivalent education as theretofore determined by an examination conducted by the board.

(b) The applicant either

(1) Has graduated from a college approved by the board.

(2) Has completed an apprentice training program approved by the board

(3) Has met all the requirements of this chapter to take the

examination for a certificate as a registered barber.

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. The enrollment fee required by this chapter shall be remitted with the application

SEC 5 Section 6537 1 of the Business and Professions Code is amended to read:

6537 1 A college may admit a person who has completed a registered apprentice training course or a 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 person who has completed a registered apprentice training course or a 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.

SEC. 6. Section 6545 of the Business and Professions Code is repealed

SEC. 7. Section 6545 is added to the Business and Professions Code, to read:

6545 The board shall issue a certificate of registration as a registered barber to a person who complies with all of the following:

(a) Files an application with the board in such form as it may prescribe.

(b) Has completed the proper grade in school as provided in Section 6546.5, or has an equivalent education, as determined by an examination conducted by an examining agency prescribed by the board.

(c) Is at least 17 years of age.

(d) Is not subject to denial pursuant to Section 480.

(e) Has graduated from a college approved by the board or has properly completed an apprentice training program approved by the board and conducted under the provisions of the Shelley-Maloney Apprentice Labor Standards Act of 1939 (Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code).

(f) Has passed a satisfactory examination conducted by the board to determine his fitness to practice as a registered barber.

(g) Has paid the certificate fee required by this chapter.

Any applicant for a certificate of registration to practice as a barber who fails the examination may file a new application accompanied by the required fees and take another examination.

SEC. 8. Section 6545.1 is added to the Business and Professions Code, to read

6545.1. Any person is qualified to receive a certificate of registration to practice barbering who complies with each of the following

(a) The applicant is at least 17 years of age

(b) The applicant is not subject to denial pursuant to Section 480

(c) The applicant has completed the proper grade in school as prescribed in Section 6546 5, or has an equivalent education to be determined by an examination conducted by an examining agency prescribed by the board

(d) The applicant has either of the following

(1) A valid cosmetology certificate issued by the California Board of Cosmetology and presents proof satisfactory to the board that the applicant has performed the acts of cosmetology in a properly licensed cosmetology establishment in California within the last two years immediately before filing the application, and proof of completion of a 400-hour course in a college approved by the board.

(2) Proof of completion of a 1600-hour course in a cosmetology school licensed by the California Board of Cosmetology, and proof of completion of a 400-hour course in a college approved by the board.

(e) The applicant provides such other information the board may require

(f) The applicant has passed a satisfactory examination conducted by the board

(g) The applicant has paid the examination and certificate fees required by this chapter

If the applicant fails to pass the examination, a new application may be filed, accompanied by the required examination fee, and another examination taken In no event shall the applicant be permitted to practice barbering until such time as an examination is satisfactorily passed and a certificate of registration as a registered barber is received.

SEC 9. Section 6546 of the Business and Professions Code is amended to read:

6546. Any person is qualified to receive a certificate of registration as a registered apprentice if he complies with each of the following:

(a) The applicant has completed the proper grade in school as provided in Section 6546.5, or has an equivalent education, as determined by an examination conducted by an examining agency prescribed by the board

(b) The applicant is at least 16 years of age

(c) The applicant is not subject to denial pursuant to Section 480

(d) The applicant is engaged in learning, or acquiring a knowledge of the occupation of barbering, in a licensed barbershop approved by the board and under the supervision of a registered barber approved by the board, provided that

(1) The applicant is trained under the supervision of a registered barber instructor, for the first three months of apprenticeship training, or

(2) The applicant completes a minimum of three months of preapprentice related training conducted by an approved apprenticeship training program approved under Section 6546 1 The preapprentice related training shall not be conducted in a facility open to the general public for professional barber services

nor shall the applicant enrolled in the training serve the general public The preapprentice related training shall be credited toward the apprentice training required by this section.

(e) The applicant has completed and filed an acceptable application with the board and has paid the certificate and registration fee required by this chapter.

SEC. 9.5. Section 6546.1 is added to the Business and Professions Code, to read:

6546.1. The apprentice training program, approved by the board, shall be conducted in compliance with the Shelley-Maloney Apprentice Labor Standards Act of 1939 (Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code) according to apprenticeship standards approved by the administrator of apprenticeship and with a copy on file with the board. The board may, in its discretion, extend for a reasonable period the time within which any course of instruction shall be completed by any apprentice upon the showing of good cause, which shall include, but is not limited to, interruptions in completing the course of instruction caused by any illness of, or accident to, the apprentice, enrollment and attendance in any secondary school or institute of higher learnings, or service in the armed forces of the United States.

The apprentice training program shall be a minimum of two years and shall be completed within three years from the date of registration with the board as an apprentice.

The apprentice training program shall not exceed more than 40 hours in each week, except that the accumulated minutes necessary to complete a service in process shall be added thereto. The maximum weekly total of training hours shall not exceed 42½. The course of instruction shall include a minimum of 144 hours of related training on the theory of barbering and shall include the subjects listed in Section 6535.

No person holding a certificate of registration as a registered apprentice shall work for more than three years as an apprentice nor shall the person work more than six months after completing the required apprentice training without applying for and taking the examination for a certificate to practice as a registered barber, except that the board may extend this three-year or six-month period upon showing of good cause, which shall include but not be limited to delays in applying for and taking the examination caused by illness of or accident to the apprentice or service in the armed forces of the United States.

SEC. 10. Section 6546.6 of the Business and Professions Code is amended to read:

6546.6. (a) Notwithstanding any other provision of this chapter, a person is qualified to receive a certificate of registration as a registered barber who complies with each of the following:

(1) Has met the requirements of subdivisions (a), (b), (c), (d), (f), and (g) of Section 6545.

(2) Has satisfactorily completed a course of training in barbering

established by the Department of Corrections which complies with the requirements of this chapter pertaining to instructors and complies in all other respects with the requirements established for such courses by the board.

(3) Has satisfactorily completed any supplementary training the board prescribes as necessary to assure that his total training will be substantially equivalent to the traininng required in a barber college licensed by the board.

(b) The provisions of Section 6536 relating to notice and hearing shall be applicable to a person who applies under this section.

SEC 11 Section 6546 7 is added to the Business and Professions Code, to read:

6546.7. Every person who holds a valid paid-up certificate of registration as an apprentice on the effective date of this section shall have six months from such date to file an application for a certificate of registration as a barber without examination. The application shall be in the form and contain the matters prescribed by the board and be accompanied by the application fee, an amount equal to the examination fee and the certificate fee as prescribed in Section 6632 The board may extend for a reasonable period the time within which an apprentice may file an application for a certificate of registration as a barber without examination upon showing good cause, which includes but is not limited to, a delay in filing an application, caused by any illness of, or accident to, the apprentice, enrollment in an institute of higher learning, or service in the armed forces of the United States.

SEC 12 Section 6548 of the Business and Professions Code is amended to read:

6548. Not less than four times each year at the times and places it determines, the board shall conduct examinations to ascertain the educational qualifications of each of the following:

(a) Applicants for certificates of registration to practice as registered barbers.

(b) Applicants for certificates of registration to practice as instructors in a barber college.

The examination of applicants for certificates of registration as registered barbers shall include both a practical demonstration and a written and oral test and shall embrace the subjects usually taught in colleges of barbering approved by the board. The examination for a certificate of registration as a registered barber shall include the standard methods for dressing all textures of hair, including hair relaxing

In the event that an applicant fails to appear for a scheduled examination, the board may assess a penalty fee of not more than 50 percent of the examination fee and in no event to exceed five dollars ($5) The board shall reschedule the examination date for the applicant upon the applicant's payment of the penalty fee.

SEC. 13 Section 6548.5 of the Business and Professions Code is amended to read

6548.5. Certificates of registered barber or of registered instructor shall be issued by the board to any applicant who satisfactorily passes an examination making a grade of not less than 75 percent, who possesses the other qualifications required by law and who has remitted the certificate of registration fee required by this chapter

SEC. 14. Section 6550 of the Business and Professions Code is amended to read:

6550. (a) No registered apprentice may independently practice barbering, but he may as an apprentice do any or all of the acts constituting the practice of barbering under the supervision and employment of a registered barber.

(b) Each shop may employ apprentices in the ratio of one apprentice to each registered barber working in the shop.

(c) Each barbershop owner employing an apprentice and the registered barber supervising an apprentice shall provide the apprentice with a course of instruction consisting of fundamentals of the subjects relating to barbering listed in Section 6535.

(d) Each barbershop owner employing an apprentice and each registered barber instructing an apprentice shall be responsible for providing the necessary equipment for instructing the apprentice in the practical phases of barbering as prescribed by regulations adopted by the board.

SEC. 15 Section 6560 of the Business and Professions Code is amended to read·

6560 Any person shall be granted a certificate of registration to practice barbering upon compliance with each of the following·

(a) Files an application with the board in such form as it may prescribe

(b) The applicant is at least 17 years of age.

(c) The applicant is not subject to denial pursuant to Section 480.

(d) The applicant has completed the proper grade in school as provided in Section 6560.5, or has an equivalent education as determined by an examination conducted by an examining agency prescribed by the board

(e) The applicant has either

(1) A valid license or certificate of registration as a practicing barber or apprentice from another state or country which has substantially the same requirements for licensing or registering barbers or apprentices as required by this chapter for barbers and as required by this chapter for apprentices prior to the amendments made to this chapter during the 1979 portion of the 1979–80 Regular Session affecting the authorization to practice as an apprentice.

(2) Affidavits from at least two persons stating that he has practiced as a barber or an apprentice in another state or country for a period of at least two years within the last five years immediately prior to filing his application in this state and has passed a satisfactory examination conducted by the board

(f) Has paid the certificate fee required by this chapter

Any applicant who fails to pass the examination may file a new application accompanied by the required examination fee and take another examination In no event will a person be permitted to practice barbering without having received a certificate of registration as a registered barber

In the event that an applicant fails to appear for a scheduled examination, the board may assess a penalty fee of not more than 50 percent of the examination fee and in no event to exceed five dollars ($5) The board shall reschedule the examination date for the applicant upon the applicant's payment of the penalty fee.

SEC 16 Section 6560.5 of the Business and Professions Code is amended to read

6560.5. Any person applying pursuant to Section 6560 for a certificate of registration as a registered barber shall have completed the ninth grade, or shall have an equivalent education as determined by an examination conducted by an examining agency prescribed by the board.

SEC 17 Section 6561 of the Business and Professions Code is repealed.

SEC. 19. Section 6633 of the Business and Professions Code is amended to read

6633 The amount of the fees payable in connection with certificates of registration to practice as an apprentice is as follows·

(a) The registration fee shall be fixed by the board at not more than twenty dollars ($20)

(b) The fee for issuance of the 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 will expire less than one year after its issuance, then the fee is 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued

(c) The renewal fee shall be fixed by the board at not more than thirty dollars ($30) for each biennial renewal period.

(d) The restoration fee is an amount equal to 150 percent of the renewal fee in effect when the application for restoration is filed.

SEC. 20 Section 6635 2 of the Business and Professions Code is amended to read·

6635 2 The enrollment fees for students enrolling in a barber college shall be fixed by the board at not more than ten dollars ($10).

SEC 21. Section 7332 of the Business and Professions Code is amended to read

7332 The board shall admit to examination for a certificate of registration and license as a cosmetologist any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows

(a) The applicant is not less than 17 years of age.

(b) The applicant has not committed any acts or crimes constituting grounds for denial of licensure under Section 480.

(c) The applicant has completed the 10th grade in the public

schools of this state or its equivalent.

(d) The applicant has had any one of the following:

(1) Training of at least 1,600 hours, in a school of cosmetology approved by the board.

(2) Practice of the occupation of a cosmetologist, for a period of four years outside of this state. Each three months of such practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Service for at least two years as a licensed junior operator in a licensed cosmetological establishment in which all of the occupations of a cosmetologist are practiced.

(4) Practice of the occupation of a licensed barber in this state within the last preceding two years, and has completed a 400-hour approved course in a cosmetology school licensed by the board.

(5) Completion of a 1,500-hour course in a barbering school licensed by the State Board of Barber Examiners and has completed a 400-hour approved course in a cosmetology school licensed by the California Board of Cosmetology.

CHAPTER 678

An act to amend Sections 74904, 74907, 74909, 74911, and 74912 of the Government Code, relating to courts.

[Approved by Governor September 14, 1979. Filed with Secretary of State September 14, 1979.]

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

SECTION 1. Section 74904 of the Government Code is amended to read:

74904 Any judge of the Ventura County Municipal Court shall receive from the county the amount of the actual and necessary expenses incurred by him upon the business of the court. Mileage shall be reimbursed at the current rate provided for employees of the County of Ventura. Mileage between residence and court sessions shall be computed each day upon the amount by which the judge's travel exceeds the round trip distance between the judge's residence and the courthouse in the City of Ventura. Unless and until otherwise determined by a majority of the judges of the Ventura County Municipal Court, with the approval of the board of supervisors, municipal court sessions shall be held in the Cities of Ventura and Simi Valley. A majority of the judges of the Ventura County Municipal Court, with the approval of the board of supervisors, shall designate any additional places within the district where municipal court sessions shall be held and shall designate the principal office of each municipal court department.

SEC 2. Section 74907 of the Government Code is amended to

read:

74907. The court executive officer may appoint the following positions which shall receive biweekly compensation specified in Section 74909.

(a) Four chief deputy municipal court clerks.
(b) Six deputy municipal court clerks IV.
(c) Sixteen deputy municipal court clerks III.
(d) Twenty-two deputy municipal court clerks II.
(e) Twenty-two deputy municipal court clerks I.
(f) One deputy municipal court legal process clerk.
(g) Four deputy municipal court clerk interpreters.
(h) Three municipal court secretaries.
(i) One supervising data entry operator.
(j) Six data entry operators III.
(k) Three clerks.
(*l*) One administrative assistant I.
(m) One accounting technician.
(n) One senior microfilm technician.

SEC. 3. Section 74909 of the Government Code is amended to read:

74909. (a) The following biweekly salary schedule, which is consistent with the Salary Ordinance of the County of Ventura, shall apply to the personnel of the Ventura County Municipal Court:

Municipal court classification	*Biweekly rate*
Chief deputy municipal court clerk	$574.46–866.26
Deputy municipal court clerk IV	460.00–692.38
Deputy municipal court clerk III	416.80–627.90
Deputy municipal court clerk II	360.80–542.59
Deputy municipal court clerk I	301.60–470.18
Deputy municipal court legal process clerk	387.20–583.26
Deputy municipal court clerk interpreter	360.80–542.59
Supervising data entry operator	373.60–611.73
Data entry operator III	340.80–556.00
Municipal court secretary	407.20–631.40
Clerk	257.60–401.70
Administrative assistant I	544.23–819.17
Accounting technician	472.00–731.55
Senior microfilm technician	364.00–577.01

Municipal court/marshal classification	*Biweekly rate*
Lieutenant	$919.78–1,308.32
Sergeant	710.76–1,010 85
Deputy marshal	571 04– 851.73
Senior secretary	387.20– 600.00
Senior marshal's process clerk	387.20– 582.40
Marshal's process clerk	335.20– 505.60
Marshal's radio dispatcher	360.80– 547 20

Merit increases within the salary range shall be in accordance with the salary merit increment plan.

(b) In the event that the above biweekly salary schedule is not applicable, then Section 74912 shall apply

SEC 4 Section 74911 of the Government Code is amended to read

74911 (a) All attachés and employees of the Ventura County Municipal Court shall be entitled to anniversary dates and salary step increases in the manner provided in the Ventura County Personnel and Salary Ordinance and shall receive the same vacation, sick leave, leave of absence, overtime and similar privileges and benefits provided for the officers and employees of Ventura County.

Except as otherwise provided in this article, the provisions of the Ventura County Ordinance Code relating to the civil service system of the county, and the rules of the civil service commission adopted pursuant thereto, shall be applicable to all attachés and employees of the Ventura County Municipal Court in the same manner and to the same extent as applicable generally to the officers and employees of Ventura County. The Ventura County Civil Service Commission shall exercise the same jurisdiction over the attachés and employees of the Ventura County Municipal Court as it exercises over the officers and employees of the county

(b) The provisions of subdivision (a) shall not apply to the court executive officer, assistant court executive officer, marshal, or assistant marshal. Notwithstanding any other provisions of this article, such persons shall receive the salary and benefits adjustments provided to other Ventura County Management personnel.

SEC. 5 Section 74912 of the Government Code is amended to read

74912. Certain classifications in the Ventura County Municipal Court are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Municipal Court and the salary of the personnel in such classifications, shall be adjusted an equivalent amount Such adjustment shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the Ventura County service Any salary increases granted or reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date such salary increases are granted or reclassifications made. Classifications deemed to be equivalent are as follows

Municipal court classification	*County classification*
Chief deputy municipal court clerk	Chief superior court clerk
Deputy municipal court clerk IV	Superior court clerk IV
Deputy municipal court clerk III	Superior court clerk III
Deputy municipal court clerk II	Superior court clerk II
Deputy municipal court clerk I	Superior court clerk I
Deputy municipal court legal process clerk	Legal process clerk
Supervising data entry operator	Supervising data entry operator
Data entry operator III	Data entry operator III
Data entry operator II	Data entry operator II
Data entry operator I	Data entry operator I
Municipal court secretary	Superior court secretary
Clerk	Clerk
Administrative assistant I	Administrative assistant I
Accounting technician	Accounting technician
Senior microfilm technician	Senior microfilm technician

Municipal court/marshal classification	*County classification*
Lieutenant	Sheriff's lieutenant
Sergeant	Sheriff's sergeant
Deputy marshal	Deputy sheriff
Senior secretary	Senior secretary
Senior marshal's process clerk	Legal process clerk
Marshal's process clerk	Civil process clerk
Marshal's radio dispatcher	Radio dispatcher

In order to carry out the intent of Section 74912 herein, whenever the salary of the class of deputy municipal court clerk I is adjusted as described above, the salary of deputy municipal court clerk interpreter shall be adjusted an equivalent number of ranges or steps as necessary on the schedule.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

CHAPTER 679

An act to repeal Section 12803.7 of the Government Code, to amend the heading of Division 10.5 (commencing with Section 11750) of, and the heading of Part 3 (commencing with Section 11860) of Division 10.5 of, and to repeal and add Part 1 (commencing with Section 11750) and Part 2 (commencing with Section 11775) of Division 10.5 of, and to repeal Article 6 (commencing with Section 11780) of Chapter 2 of, and Article 1 (commencing with Section 11840) of Chapter 10 of, Part 2 of Division 10.5 of, the Health and Safety Code, relating to drug and alcohol programs.

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

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

SECTION 1. Section 12803.7 of the Government Code is repealed.

SEC. 2. The heading of Division 10.5 (commencing with Section 11750) of the Health and Safety Code is amended to read:

DIVISION 10 5 STATE DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

SEC. 3. Part 1 (commencing with Section 11750) of Division 10.5 of the Health and Safety Code is repealed.

SEC. 4. Part 1 (commencing with Section 11750) is added to Division 10.5 of the Health and Safety Code, to read:

PART 1. CREATION AND TRANSFER OF DUTIES

11750. There is in state government in the Health and Welfare Agency a State Department of Alcohol and Drug Programs.

11751. The State Department of Alcohol and Drug Programs is under the control of an executive officer known as the Director of Alcohol and Drug Programs, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The director shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code

11751.1. The Director of Alcohol and Drug Programs shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

11751.2. There is in the State Department of Alcohol and Drug Programs, a Division of Alcohol Programs, a Division of Drug Programs, a Division of Administration, and such other divisions, as established by the department to the extent authorized by existing

law.

11751.4 The State Department of Alcohol and Drug Programs succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Alcohol and Drug Abuse, portions of which shall be administered through the Division of Alcohol Programs The State Department of Alcohol and Drug Programs also succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the drug abuse function of the State Department of Alcohol and Drug Abuse, portions of which shall be administered through the Division of Drug Programs.

It is the intent of the Legislature to assure the integrity and separate identity of state alcohol and drug programs.

11751.6. The State Department of Alcohol and Drug Programs may use the unexpended balance of funds available for use in connection with the performance of the functions vested in the department pursuant to Section 11751.4.

11751.7. All officers and employees of the State Department of Alcohol and Drug Abuse heretofore vested with any duty, power, purpose, responsibility, or jurisdiction to which the State Department of Alcohol and Drug Programs has succeeded, who, on the effective date of this section, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Alcohol and Drug Programs by Section 11751.4, shall be transferred to the State Department of Alcohol and Drug Programs. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Alcohol and Drug Programs pursuant to the State Civil Service Act, except as to positions exempted from civil service.

11751.8. The State Department of Alcohol and Drug Programs shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land or other property, real or personal, held for the benefit or use of any state agency, the functions of which are vested in the State Department of Alcohol and Drug Programs by Section 11751.4.

11751.9. All officers or employees of the State Department of Alcohol and Drug Programs employed after the effective date of this section shall be appointed by the Director of Alcohol and Drug Programs.

11752. As used in this division, "department" means the State Department of Alcohol and Drug Programs and "director" means the Director of the State Department of Alcohol and Drug Programs

11753 All regulations heretofore adopted by the State Department of Health or the Department of Alcohol and Drug Abuse which relate to functions vested in the State Department of Alcohol and Drug Programs and which are in effect immediately preceding the effective date of this section, shall remain in effect and

shall be fully enforceable unless and until readopted, amended, or repealed by the State Department of Alcohol and Drug Programs, except as any such regulations are inconsistent with any of the provisions of this division

11754 (a) The department shall be the single state agency authorized to receive any federal funds payable directly to the state by the National Institute on Alcohol Abuse and Alcoholism to implement programs which provide services to alleviate the problems related to the inappropriate use of alcoholic beverages.

(b) The department shall be the single state agency authorized to receive any federal funds payable directly to the state by the National Institute on Drug Abuse to implement programs which provide services to alleviate the problems related to the use of other drugs

(c) The department may receive other federal funds and expend them pursuant to the provisions of this division, the Budget Act or other statutes

SEC 5 Part 2 (commencing with Section 11760) of Division 10 5 of the Health and Safety Code is repealed

SEC 6 Part 2 (commencing with Section 11760) is added to Division 10 5 of the Health and Safety Code, to read·

PART 2 STATE GOVERNMENT'S ROLE TO ALLEVIATE PROBLEMS RELATED TO THE INAPPROPRIATE USE OF ALCOHOLIC BEVERAGES

CHAPTER 1 GENERAL PROVISIONS

Article 1 Statement of Problems Related to the Inappropriate Use of Alcoholic Beverages and the Reasons for and Limitations on State Government's Role

11760 The Legislature finds and declares that problems related to the inappropriate use of alcoholic beverages adversely affect the general welfare of the people of California These problems, which constitute the most serious drug problem in California, include, but are not limited, to the following

(a) Substantial fatalities, permanent disability, and property damage which result from driving under the influence of alcoholic beverages and a drain on law enforcement, the courts, and penal system which result from crimes involving inappropriate alcohol use

(b) Alcoholism in the individual, which is an addiction to the drug alcohol, with its attendant deterioration of physical and emotional health and social well-being

(c) Alcoholism in the family with its attendant deterioration of all relationships and the well-being of family members

(d) A risk of increased susceptibility to serious illnesses and other major health problems which ultimately create a burden on both public and private health facilities and resources

(e) A risk of fetal alcohol syndrome.

(f) Losses in production and tax revenues due to absenteeism, unemployment, and industrial accidents.

11760.1 The Legislature recognizes that any efforts to address the problems related to inappropriate alcohol use are greatly hindered by:

(a) The stigmatization of persons who have alcohol problems.

(b) Denial by the individual and the community, especially among members of the professional community, sometimes referred to as gatekeepers, regarding the nature and scope of alcohol problems.

(c) Services which, if uncoordinated, often are conflicting, inappropriate, ineffective, duplicative, and wasteful of limited public and private resources.

(d) Actions and attitudes which encourage consumption of alcoholic beverages in California, which lead to alcohol problems.

11760 2. The Legislature finds that state government has an affirmative role in alleviating problems related to the inappropriate use of alcoholic beverages and that its major objective is protection of the public health and safety, particularly where problems related to inappropriate alcohol use are likely to cause harm to individuals, families, and the community.

11760.3. The Legislature recognizes that state government's role should be limited for several reasons including, but not restricted to:

(a) State government should intervene in the activities of individuals only where such individuals' inappropriate use of alcoholic beverages is likely to cause significant harm to other persons, families, or the community, and

(b) The resources available to alleviate problems related to inappropriate alcohol use are limited; and

(c) Significant private resources, economic incentives, and voluntary actions of individuals and groups in the community are available and should be utilized and encouraged to preclude the necessity for governmental involvement.

11760 4 (a) The Legislature finds that, in order to utilize effectively the limited state funds available for programs whose purpose is to alleviate the problems related to inappropriate alcohol use and to overcome the barriers to their solution as described in Section 11760.1, the responsibility and authority for the encouragement of the planning for and the establishment of county-based programs and statewide alcohol projects be concentrated primarily in one state department

(b) The Legislature further recognizes the department's limited role in state government in trying to alleviate the problems related to inappropriate alcohol use because of

(1) The department's limited budget and staff; and

(2) The important role played by other state agencies in trying to alleviate the problems related to inappropriate alcohol use

Article 2. Definitions

11765 (a) "County board of supervisors" includes county boards of supervisors in the case of counties acting jointly.

(b) "Agency" means the Health and Welfare Agency.

(c) "Secretary" means the Secretary of the Health and Welfare Agency

(d) "County plan" or "plan" means the county alcohol plan, including a budget, adopted by the board of supervisors pursuant to Chapter 4 (commencing with Section 11795) of this part.

(e) "State advisory board" means the state advisory board established pursuant to Section 11780.

(f) "Advisory board" means the county advisory board on alcohol problems established pursuant to Section 11805.

(g) "Alcohol program administrator" means the county alcohol program administrator designated pursuant to Section 11800.

(h) "State alcohol program" includes all statewide alcohol projects administered by the department and all county alcohol programs funded under this part.

(i) "Division" means the Division of Alcohol Programs in the department.

(j) "Health systems agency" means the health planning agency established pursuant to federal legislation cited as Public Law 93-641 of 1974

(k) "Alcohol problems" means problems of individuals, families, and the community which are related to inappropriate alcohol use, and includes conditions usually associated with the terms "alcoholism" and "alcohol abuse."

(*l*) "Problem drinker" means anyone who has a problem related to the consumption of alcoholic beverages whether of a periodic or continuing nature, including, but not limited to, persons referred to as "alcoholics", "alcohol abusers", and "drinking drivers" Such problems may be evidenced by substantial impairment to the person's physical, mental, or social well-being which adversely effects his or her abilities to function in the community.

(m) "Alcohol service" means any service that is specifically and uniquely designed to encourage recovery from problem drinking and to alleviate or preclude alcohol problems in the individual, his or her family, and the community.

(n) "Alcohol program" means a collection of alcohol services which are coordinated to achieve the specified objectives of this part.

Article 3. Departmental Powers and Duties and Limitations Thereof

11770 The department shall·

(a) Provide funds to counties for the planning and implementation of local programs to alleviate problems related to inappropriate alcohol use

(b) Review and approve or disapprove county alcohol plans submitted for state and federal funds allocated by the department

(c) Provide for technical assistance and training to local programs to assist in the planning and implementation of quality services

(d) Assure program quality in compliance with appropriate standards pursuant to Chapter 7 (commencing with Section 11830) of this part.

(e) Sponsor and encourage research into the (1) biological aspects of alcoholism, (2) social factors contributing to problems relating to inappropriate alcohol use, and (3) effectiveness of various types of alochol programs, and serve as a resource to provide information relating to alcohol problems pursuant to Chapter 3 (commencing with Section 11785) of this part

(f) Cooperate with other governmental agencies and the private sector in establishing, conducting, and coordinating alcohol programs and projects pursuant to Chapter 2 (commencing with Section 11775) of this part.

(g) Cooperate with other state agencies to encourage appropriate health facilities to recognize, without discrimination, persons with alcohol problems who also require medical care and to provide them with adequate and appropriate services

(h) Encourage training for other state agencies, in cooperation with the State Personnel Board, to assist such agencies to recognize employee problems relating to inappropriate alcohol use which affect job performance and encourage such employees to seek appropriate services

(i) Develop and implement a statewide plan to alleviate problems related to inappropriate alcohol use and to overcome the barriers to their solution as described in Section 11760 1, and review and revise such plan annually. In preparing the plan, the department shall take into consideration the local plans submitted by counties pursuant to this part In order to avoid duplication of efforts in developing statewide plans, the department shall consult with the Office of Statewide Health Planning and Development to adopt a uniform format and policies for the development of the statewide alcohol plan to facilitate its incorporation in the state health plan The department shall submit an annual report to the Legislature no later than January 31st of each year which incorporates the state plan The report shall also include, but not be limited to, the information specifically required pursuant to provisions of this part

(j) Assist and cooperate with the Office of Statewide Health Planning and Development in the drafting and adoption of the State Health Plan to assure inclusion of appropriate provisions relating to alcohol problems

(k) Encourage counties to coordinate alcohol services, where appropriate, with county health and social service programs, or with regional health programs pursuant to Article 2 (commencing with Section 11821) of Chapter 5 of this part

(*l*) In the same manner and subject to the same conditions as

other state agencies, develop and submit annually to the Department of Finance a program budget for the state-funded alcohol program which shall include expenditures proposed to be made under this part, and may include expenditures proposed to be made by any other state agency relating to alcohol problems pursuant to a contract with the department.

(m) Encourage the utilization, support, assistance, and dedication of interested persons in the community in order to increase the number of persons with alcohol problems who voluntarily seek appropriate services to alleviate such problems.

(n) Evaluate or require the evaluation, including the collection of appropriate and necessary information, of alcohol programs pursuant to Chapter 6 (commencing with Section 11825) of this part.

(o) Perform all other duties specifically required pursuant to this part

11771. The department shall have the power to act as follows:

(a) To adopt regulations pursuant to Chapter 8 (commencing with Section 11835) of this part.

(b) To employ such administrative, technical, and other personnel as may be necessary for the performance of its powers and duties.

(c) To enter into contracts with public or private agencies or make grants necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public or private agencies and individuals to pay them in advance or reimburse them for services provided to problem drinkers, their families and communities. The Legislature finds and declares that many of the activities required of the department which are necessary to carry its duties under this part are unique to alcohol services and programs. Therefore, the Legislature directs the department to contract with public or private agencies or individuals to perform its duties whenever such expertise is available and appropriate to utilize.

(d) To do or perform any other acts which may be necessary, desirable, or proper to carry out the purposes of this part.

11772 (a) Notwithstanding any provisions to the contrary set forth in this part, the department may not contract directly for the provision of alcohol services except as follows

(1) With the federal government, to enable provision of services for recipients of Supplemental Security Income in the event that a county chooses not to provide such services.

(2) With the county pursuant to Chapter 4 (commencing with Section 11795) of this part

(3) For demonstration programs of limited duration and scope which, wherever possible, shall be administered through the counties and which are specifically authorized and funded by the Budget Act or other statutes

(4) To provide supportive services, such as technical assistance, on a statewide basis, or management and evaluation studies to help

assure more effective implementation of the provisions of this part

(b) The Legislature strongly encourages all counties to apply for funds under this part because of the seriousness of alcohol problems in California and the necessity for affirmative governmental involvement to help alleviate alcohol problems However, the Legislature has chosen not to mandate that counties provide such services and programs In the absence of local community control of the services and programs, the state shall not intervene to operate directly or through contract services and programs which the elected county board of supervisors has chosen not to provide to its constituents

Chapter 2 Relationship of the Department to Other Governmental Agencies and the Private Sector

Article 1 Federal Government

11775 (a) Each year the department shall apply for federal funds from the National Institute on Alcohol Abuse and Alcoholism and may expend such funds only upon appropriation or approval by the Legislature pursuant to the provisions of the Budget Act

(b) Whenever the National Institute on Alcohol Abuse and Alcoholism, as created pursuant to Public Law 91-6161 of 1970, conditions its allocation of funds to the department in a manner which would conflict with any provisions of this part, the department shall specifically describe such conflict in order to assist the Legislature in deciding upon whether to appropriate or approve expenditure of such funds

(c) The department shall discuss with the National Institute on Alcohol Abuse and Alcoholism counties, and counties shall discuss with individual grantees ways to address (1) the problems caused by declining or expiring federal grants to programs in California in light of limited funds available at the state and local level and (2) the need for coordination between programs funded directly by the National Institute on Alcohol Abuse and Alcoholism and state-funded programs

Article 2 Other State Agencies

11776 The department shall confer and cooperate with other state agencies whose responsibilities include alleviating the problems related to inappropriate alcohol use in order to maximize the state's effectiveness and limited resources in such efforts These agencies shall include, but are not limited to, the Department of Alcoholic Beverage Control, Mental Health, Motor Vehicles, Social Services, Health Services, Developmental Services, Education, Corrections, Youth Authority, Rehabilitation, Employment Development, Industrial Relations, and the Office of Traffic Safety The department shall include in its annual report a description of its activities during

the previous year to implement this section In the department's annual report issued in 1980, the department, in cooperation with other appropriate state agencies, shall include a description of other state agencies' current responsibilities and potential roles in alleviating the problems related to inappropriate alcohol use, of such agencies' potential impact on the supply and demand for alcoholic beverages, and of their remedial activities to alleviate alcohol problems.

Article 3 The Legislature

11777. The Legislature, subject to the Governor's approval, has the sole authority under Section 12 of Article IV of the California Constitution to appropriate any funds, including federal funds, to the department pursuant to the Budget Act. Each year the Legislature shall review the Governor's proposed budget for the department and periodically shall conduct hearings and undertake other activities to oversee the department's implementation of the provisions of this division.

Article 4. Counties

11778 It is the intent of the Legislature that the department and the counties maintain a cooperative partnership to assure effective implementation of the provisions of this division as described in Chapter 4 (commencing with Section 11795) of this part.

Article 5. Private Sector

11778 9 It is the intent of the Legislature that the department cooperate closely with individuals and organizations concerned with alleviating problems related to inappropriate alcohol use. The Legislature recognizes the wealth of experience and commitment that many individuals and organizations in the community have to offer which can enhance the effectiveness of the programs funded by the department through counties

Article 6 State Advisory Board

11780 (a) There is a State Advisory Board on Alcohol-Related Problems to the department which shall consist of 15 members, of which five members shall be appointed by the Governor, five members by the Senate Rules Committee, and five members by the Speaker of the Assembly

(b) The members shall be appointed for terms that commence on January 1, 1976 Of the members first appointed by the Governor, the Senate Rules Committee, and the Speaker, two out of each five appointments, as selected by the appointing power, shall hold office for three years, two out of each five, as selected by the appointing

power, shall hold office for two years, and one out of each five, as selected by the appointing power, shall hold office for one year After these initial terms, each member shall be appointed for a term of three years

(c) Members shall have a professional or personal interest in, and commitment to, alleviating alcohol problems. It is the intent of the Legislature that the appointing powers make appointments that include representatives from various economic, social, and occupational groups, and allow for geographic distribution throughout the state. No member of the board may be an employee or member of the board of directors of an organization which is a direct recipient of any state funds pursuant to a contract with a department, which shall include compensation for contracted services or membership on an advisory body or board of directors of such recipient organization. No spouse of any person described in the preceding sentence may be a member of the board.

(d) The board shall meet at least once every three months and may meet as often as required, as a full board or in committees, to implement the provisions of this section All meetings of the board, and any committees thereof, shall be open to the public and adequate notice shall be provided in advance to interested persons.

(e) The members shall select the chair of the board annually and adopt bylaws as appropriate to carrying out its duties

(f) Members of the board shall serve without compensation, but shall receive reimbursement for travel and other necessary expenses actually incurrred in the performance of their official duties

(g) The board shall advise the director on the major policy issues relating to the implementation by the department of the provisions of this part and on any other related matters the director refers to it, shall encourage public understanding of the nature of alcohol problems, and encourage support throughout the state for development and implementation of effective alcohol programs. Upon request of the chair of the board, the director shall respond in writing to the board regarding each of its recommendations

(h) The board shall participate in the regulations process pursuant to the provisions of Chapter 8 (commencing with Section 11835) of this part

(i) The department shall provide for appropriate training to the board members relating to their charge so as to assure their understanding of the state-funded alcohol program It is the intent of the Legislature that each member of the board learn about the elements of the alcohol program and the nature of alcohol problems in his or her county of residence in order to assist him or her in understanding the major policies to be examined by the board

(j) The board shall submit an annual report to the department and Legislature in January of each year which describes its accomplishments and includes its recommendations regarding the department's role in alleviating alcohol problems

(l) This article shall remain in effect only until January 1, 1983,

and as of that date is repealed unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

(2) The Legislature finds and declares that periodic review and evaluation of advisory bodies is necessary to assure that such bodies operate according to legislative intent and perform services of real value, in a fiscally prudent manner, for the people of California. The Legislature further finds and declares that such review is best accomplished by the establishment in statute of a termination date for the advisory board which shall remain in effect unless upon presentations by the board and public, the Legislature deems it in the public interest to repeal the termination Such review also provides an opportunity to reevaluate the needs and functions of the board and to consider more efficient alternatives.

(3) The Legislature shall review the functions and performance of the board on a one-time basis pursuant to the provisions of this subdivision, and shall conclude such review, considering repeal of the relevant sections and reorganization alternatives, no later than January 1, 1982.

(4) The board shall submit to the Legislature a statement of purpose, organization and performance no later than January 1, 1981, which shall include all of the following:

(A) The specific purposes for which the board was established

(B) The current need for the continued existence of the board including an assessment of what harm the public will suffer if the board goes out of existence.

(C) The organization of the board, the relationship between the board's structure and the functions it performs, and the procedures which have been established by the board to carry out its purposes.

(D) The relationship of the board and the department in regard to staff functions provided by the department, including the effectiveness of such staff.

(E) An evaluation of the board's performance in accomplishing the purposes for which it was established.

(F) Recommendations regarding reorganization, changes in purposes, staffing needs, or statutory changes which may be necessary to improve the board's performance

(5) Upon receipt from the board, the Legislature shall submit the board statement to the Legislative Analyst for review. The Legislative Analyst shall evaluate the board on the basis of the statement and independent research and shall submit an evaluation of the board's purpose, organization, and performance and an estimate of the impact of reformation of the board no later than three months after receiving the statement.

(6) Upon receipt of the Legislative Analyst's evaluation, the Speaker of the Assembly and the Senate Rules Committee shall provide that the appropriate policy and fiscal committees of the Legislature, meeting in a joint hearing, shall conduct a review of the board's purpose, organization, and performance through hearings at which the testimony of the public and board representatives shall be

taken. In such hearings, the board shall bear the burden of proof in demonstrating a public need for continued existence. Not later than December 31, 1981, the committees shall issue a statement of findings upon conclusion of the review If the committees find that the board should continue in existence, they shall assure the introduction of appropriate legislation

(7) No funds shall be appropriated or otherwise be made available from any source whatsoever to the board after the operative date of repeal without the express consent of the Legislature by statute

(8) Nothing in this section shall be construed to prohibit the Legislature from terminating the board at a date earlier than that provided herein, nor to prohibit the Legislature from considering any other legislation relating to such board

Chapter 3 Research

11785. The Legislature recognizes the importance of encouraging research to study the biological aspects of alcoholism and the social factors contributing to problems related to the inappropriate use of alcoholic beverages

The Legislature further recognizes the value of interpreting and applying research results through changes in public policy

11786 The department is authorized to contract with the Regents of the University of California or a private university or universities located within California for purposes of establishing and maintaining research centers on a campus or campuses of the University of California or such private university or universities for the study of the biological aspects of alcoholism and the social factors contributing to problems relating to the inappropriate use of alcoholic beverages Funds appropriated by the Legislature pursuant to this chapter may be expended for salaries of staff and necessary operating expenses and related research materials and may not be expended for capital outlay purposes

11787 (a) The department and the center or centers shall conduct informational forums and provide descriptive reports in order to encourage interaction between the center or centers and persons who provide services to alleviate problems relating to inappropriate alcohol use The department shall also assure that the research undertaken by such centers is explained and disseminated so that the Legislature and people concerned with the problems relating to inappropriate alcohol use may understand the purposes and findings of such research Wherever appropriate, the department shall recommend to the Legislature how such findings may be applied to public policy in order to alleviate the problems related to the inappropriate use of alcoholic beverages

(b) Within available resources, the department shall gather and disseminate information regarding activities and findings of other research projects undertaken by public and private agencies in California, and be able to refer people to sources of existing

information on research topics

(c) In its annual report to the Legislature required pursuant to Section 11770, the department shall describe the status of the research center projects, the findings, if any, and the other activities, of the center or centers during the previous year.

CHAPTER 4. STATE-COUNTY PARTNERSHIP

Article 1. General Provisions

11795. (a) The board of supervisors of each county may apply to the department for funds for the purpose of alleviating problems in its county related to the inappropriate use of alcoholic beverages The provisions of this part shall be applicable only to counties electing to apply for state or federal funds allocated by the department under this part.

(b) The Legislature grants responsibility to the county to administer and coordinate all county alcohol programs funded under this part. County alcohol programs shall be held accountable to the board of supervisors and to the state for their effective implementation. The Legislature further grants the responsibility to the county to establish its own priorities for alcohol programs funded under the provisions of this part.

11796. (a) Two or more counties may jointly establish county alcohol programs pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code and, subject to the department's approval, any county may, by contract, furnish alcohol services to another county.

(b) Unless otherwise expressly provided for or required by the context, the provisions of this part relating to county alcohol programs shall apply to alcohol programs operated jointly by two or more counties.

11796.1. Except as provided in subdivision (b) of Section 11812, nothing in this part shall prevent any city or combination of cities from financing and administering directly an alcohol program or providing an alcohol service by contracting with the county to provide and be reimbursed for alcohol services provided pursuant to the county plan under Article 4 (commencing with Section 11810) of this chapter. In addition, where appropriate, any county may contract with a city, or combination of cities, to administer contracts with privately operated agencies to alleviate problems related to inappropriate alcohol use.

11797. Funds allocated to the county pursuant to this part shall be used exclusively for the development, support, and expansion of alcohol services pursuant to the provisions of this part and such funds shall be separately identified and accounted for

11798. Counties that elect to apply for funds shall prepare and submit a county alcohol plan which shall include a budget of all funds allocated to them by the department pursuant to this part, and shall

report utilization of such funds in an annual expenditure report pursuant to Article 4 (commencing with Section 11810) of this chapter.

Article 2. County Administration

11800. (a) The board of supervisors shall designate a health-related county agency or department which shall administer the county alcohol program The head of the designated health-related agency or department shall appoint a full-time alcohol program administrator, who shall report to the head of such agency or department through administrative channels designated by the board of supervisors The county alcohol program shall be placed at the same administrative level and have responsibility and authority similar to other major health programs in the county

(b) In accordance with regulations adopted by the department, the alcohol program administrator shall be qualified by his or her ability, training, and experience to administer or coordinate and monitor the county alcohol program.

(c) The requirement in subdivision (a) that the alcohol program administrator be full-time shall apply only to counties whose population exceeds 200,000

In counties whose population does not exceed 200,000, the board of supervisors shall designate an alcohol program administrator who may be a person who administers other health-related programs in addition to the alcohol program

11801. The alcohol program administrator, acting through administrative channels designated pursuant to Section 11795, shall:

(a) Coordinate and be responsible for the planning process, including preparation of the plan and budget, required pursuant to Article 4 (commencing with Section 11810) of this chapter

(b) Recommend to the board of supervisors the provision of services, establishment of facilities, contracting for services or facilities, and other matters necessary or desirable in accomplishing the purposes of this part pursuant to the planning process described in Article 4 (commencing with Section 11810) of this chapter.

(c) Assure compliance with applicable laws relating to discrimination against any person because of race, creed, age, religion, sex, sexual preference, or disabling conditions

(d) Provide reports and information periodically to the advisory board regarding the status of alcohol programs in the county and keep the board informed regarding changes in relevant state, federal and local laws or regulations or improvements in program design and services that may affect the county alcohol program.

(e) Be directly responsible for administration of all alcohol program funds allocated to the county under this part and for administration of county operated programs and for coordination and monitoring of programs that have contracts with the county to provide alcohol services.

(f) Encourage the appropriate utilization of all other public and private alcoholism programs and services in the county in coordination with the alcohol programs funded pursuant to this part.

(g) Coordinate the activities of the county alcohol program with appropriate health planning agencies pursuant to Chapter 5 (commencing with Section 11820) of this part.

(h) Assure the evaluation of alcohol programs, including the collection of appropriate and necessary information, pursuant to Chapter 6 (commencing with Section 11825) of this part.

(i) Participate in the process to assure program quality in compliance with appropriate standards pursuant to Chapter 7 (commencing with Section 11830) of this part.

(j) Participate in the regulations process pursuant to Chapter 8 (commencing with Section 11835) of this part

(k) Participate and represent the county in meetings of designated alcohol program administrators pursuant to Section 11811.5.

(*l*) Perform any other acts which may be necessary, desirable, or proper to carry out the purposes of this part.

Article 3. County Advisory Board

11805 (a) Except as provided in subdivisions (b) and (c) of this section, each county shall have an advisory board on alcohol problems composed of 15 members appointed by the board of supervisors. Members shall have a professional interest in, or personal commitment to, alleviating problems related to inappropriate alcohol use in their community. The membership shall include representatives from various economic, social, and occupational groups and shall be broadly representative of the demographic characteristics of the county

The advisory board shall be independent from any other advisory board established pursuant to any provision of state law. However, the advisory board shall coordinate its efforts, where appropriate, with other county advisory boards concerned with alcohol problems

This subdivision shall apply only to counties whose population exceeds 200,000

(b) In counties whose population is between 125,000 and 200,000, the board of supervisors shall appoint an independent advisory board which shall be composed of not less than seven nor more than 15 members Such boards shall meet the same membership requirements as described in subdivision (a) of this section.

(c) In counties whose population does not exceed 125,000, the board of supervisors shall appoint an advisory board which shall be composed of not less than seven nor more than 15 members which may: (1) be independent, (2) be under the jurisdiction of another health-related advisory board established pursuant to any provision of state law, or (3) have the same membership as such other advisory board Except where in conflict with other provisions of law, boards

described in this subdivision shall meet the same membership requirements as described in subdivision (a) of this section

(d) If two or more counties whose combined population exceeds 200,000, jointly apply to the department for funds under this part, the advisory board for its alcohol program shall consist of 15 members appointed pursuant to the requirements of subdivison (a) If the combined population of such counties does not exceed 200,000, the requirements of subdivision (b) or (c) shall apply as appropriate to such counties.

11806 Each member of the board shall be appointed for a term of three years Persons appointed as members of the alcoholism advisory board established pursuant to former Section 11795 of the Health and Safety Code, as added by Chapter 1128 of the Statutes of 1975, may continue to serve until the expiration of their terms, provided that they meet the other conditions for membership required pursuant to this article

11806.5. The county alcohol program administrator shall provide for the orientation of board members, including, but not limited to, provision of information and materials on alcohol problems and programs, planning procedures, and site visits to local alcohol programs.

11807. (a) Except as permitted under subdivision (c) of Section 11805, the advisory board shall not include any person, or his or her spouse, who is any of the following

(1) A member of a board of directors or advisory body or employee of any county-operated or county contract provider of alcohol services, or of any program approved pursuant to Chapter 9 (commencing with Section 11837) of this part

(2) A direct recipient of any state funds allocated under this part pursuant to a contract with the department, which shall include compensation for contracted services or membership on an advisory body or board of directors of such recipient agency

(3) A member of the board of supervisors or a person on the staff of a member of the board of supervisors

(4) A county employee of the health-related agency or department designated pursuant to Section 11800

(b) The board of supervisors may, by resolution, designate further categories of persons who may not serve on the board, provided that such prohibitions are consistent with the intent of this section It is the intent of the Legislature in authorizing the board of supervisors to designate such further categories that the integrity of and the community's confidence in the advisory board be maintained, and that the advisory board consist of persons without any economic interests in any county-operated or county contract providers of alcohol services

(c) In the event that prior to the expiration of his or her term, a member ceases to retain the status which qualified him or her for appointment to the advisory board, his or her membership on the advisory board shall terminate and there shall be a vacancy on the

advisory board to be filled by the board of supervisors

(d) The members of the advisory board may be removed for cause pursuant to standards adopted by the advisory board which are consistent with the provisions of this article and which are approved by the board of supervisors

(e) The department shall assure that the requirements of this section are met by each member of the board and shall deny payments to any county that does not comply with such provisions.

11808. (a) The advisory board shall meet at least bimonthly and may meet at such other times as may be deemed necessary by the chair or alcohol program administrator. The members of the advisory board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties under this article However, the members may also receive compensation out of county funds at the option of the board of supervisors.

(b) All meetings of the advisory board shall be open to the public and shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

11809 The advisory board:

(a) Shall participate in the planning process pursuant to Article 4 (commencing with Section 11810) of this chapter

(b) Shall advise the county alcohol program administrator and the board of supervisors on policies and goals of the county alcohol program and on any other related matters the alcohol program administrator or the board of supervisors refers to it, or which are raised by the advisory board.

11809.3 In the event the alcohol program administrator and advisory board disagree regarding the development of, or implementation of, any element of the county plan, or any related matter, the advisory board may designate a representative to report to, or make a presentation before, the board of supervisors relating to such disagreement.

11809.5 The advisory board may submit any comments regarding the county alcohol program or minutes of its meetings, in addition to the submissions required pursuant to Article 4 (commencing with Section 11810) of this chapter, to the board of supervisors.

Article 4. County Alcohol Plan

11810. Counties that elect to apply for state funds under the provisions of this part shall determine their own priorities for alleviating problems related to inappropriate alcohol use in their communities and for provision of alcohol services pursuant to the planning process described in this article.

The Legislature recognizes the difficulty in balancing the justification for statewide standards that should be applied to every

county's proposed application to the state for funds under this part and the values inherent in local community control. The Legislature emphasizes the need for a representative advisory board established pursuant to Section 11805 and a qualified alcohol program administrator appointed pursuant to Section 11800 who will reach out to the community to seek a diversity of opinions so as to assure that the county plan reflects as much as possible the needs of the community to alleviate the problems related to inappropriate alcohol use.

11810.5. (a) Each year, the county alcohol program administrator shall coordinate the planning process described in this section in cooperation with the alcohol advisory board and interested persons in the community The alcohol program administrator, in cooperation with the advisory board, shall prepare a written description of the process to be followed in the development of the county alcohol plan. The alcohol program administrator shall include such description in his or her submission of the plan to the board of supervisors. Such process shall provide for a reasonable opportunity for input from interested groups and individuals.

(b) Whenever appropriate, the county shall encourage coordination with the planning processes for other health programs to assure a unified planning process for all health programs, including the county alcohol program. However, such unified planning shall not delay or interfere with any of the procedures or applications for funding under this part.

(c) The alcohol program administrator, in cooperation with the advisory board, in preparing the plan, shall:

(1) Identify and describe the major problems in the county related to the inappropriate use of alcoholic beverages. Such descriptions shall identify specific populations affected by such problems and describe the impact of alcohol problems on the public's well-being.

(2) Describe the specific objectives the county expects to achieve in alleviating such problems.

(3) Describe the programs and services required to achieve such objectives, including:

(A) An identification of private and public alcohol programs and services available within the county, exclusive of services funded under this part, and how such services are coordinated with state or county funded services to achieve such objectives.

(B) An identification of the programs and services, which may include strategies to influence public attitudes, behaviors, and policies concerning alcohol problems, to be funded under this part to achieve such objectives

(C) An identification of unmet program and service needs, with an approximate cost

(4) Describe the evaluation methods that will be used by the county and providers of services funded under this part to measure achievement of such objectives utilizing the methods described in

Article 2 (commencing with Section 11827) of Chapter 6 of this part.

(5) Include a budget for providing programs and services identified in the plan Such budget shall identify by source and amount, including governmental funds, fees, contributions, grants, and other revenues, the funds available to the county for such purposes The budget shall provide estimates for expenditures for each provider of services and for the county's administrative expenses necessary to implement the plan

11811 Counties shall have broad discretion in the choice of services they utilize to alleviate the alcohol problems of specific population groups and the community identified pursuant to the planning process described in Section 11810.5 Such services shall include, but need not be limited to, the following broad categories:

(a) Direct services to (1) problem drinkers, and (2) the families of problem drinkers

(b) Indirect services, which include activities frequently referred to as "prevention", (1) to educate persons to enable them to recognize their own alcohol problems or to identify individuals with alcohol problems, (2) to make known the availability of direct services, and (3) to educate the community to affect its attitudes and responses to alcohol problems

11811 1 The major purposes of such indirect services include the following

(a) To lessen the stigmatization of persons who seek help for problems related to inappropriate alcohol use; and

(b) To provide information so that the public may make informed personal and public policy decisions regarding the inappropriate use and nonuse of alcoholic beverages, and

(c) To enlighten the "helping professions" to recognize persons with alcohol problems and to offer them appropriate services, and

(d) To encourage persons to seek early help for their alcohol problems

The Legislature recognizes that the effective provision of indirect services will result in an increased demand upon, and utilization of, existing direct services to problem drinkers and their families However, the Legislature believes that provision of effective indirect services over the next decade will result in saving taxpayers funds which might otherwise have to be expended for higher cost direct services

11811 3 In addition to the services described in Section 11811, a county may provide other services or programs pursuant to the provisions of this section, including, but not limited to, the following

(a) Occupational programs for county employees designed to help recognize employees with alcohol problems which affect their job performance and to encourage their seeking services to alleviate such problems

It is the intent of the Legislature to encourage every county to institute such a program for its own employees in order to set an example for the community regarding local government's attitude

toward alcohol problems.

(b) Vocational rehabilitation services for which a county may contract directly with the State Department of Rehabilitation. Counties which do not choose to contract with the State Department of Rehabilitation may use the state share of funds allocated to them by the State Department of Alcohol and Drug Programs for any other services authorized in Section 11811 or this section.

It is the intent of the Legislature that counties make maximum utilization of vocational rehabilitation services, where reasonable and appropriate to do so, pursuant to a contract with the State Department of Rehabilitation. However, a county, pursuant to a resolution by the board of supervisors, may utilize the state share of such funds for other authorized services pursuant to Section 11811 if the State Department of Rehabilitation is not responsive to the needs of the county or the county has established, through the planning process, higher priorities for the use of such funds.

11811 5. A county may also utilize funds for:

(a) Planning, program development, and administration by the county and alcohol program administrator. The department shall establish uniform definitions of the elements of county alcohol program administration and shall set the minimum and maximum levels of administrative services, taking into account the total funds expended pursuant to the county alcohol plan.

In conducting planning, evaluation, and research activities to develop and implement the county alcohol program, counties may contract with appropriate public or private agencies.

(b) Actual and necessary expenses incurred by the alcohol program administrator relating to attendance at not more than four meetings each year of such administrators and reasonable dues for any related activities and meetings. Each administrator of a county which applies for funds under this part shall attend each such quarterly meeting, unless a waiver is provided for by the department.

11811.6 (a) The department shall consult with alcohol program administrators in establishing standards pursuant to Chapter 7 (commencing with Section 11830) of this part and regulations pursuant to Chapter 8 (commencing with Section 11835) of this part, shall consult with alcohol program administrators on matters of major policy and administration, and may consult with alcohol program administrators on other matters affecting persons with alcohol problems. The alcohol program administrators may organize, adopt bylaws, and annually elect officers. The administrators shall consist of all legally appointed alcohol administrators in the state as designated pursuant to subdivision (a) of Section 11800.

(b) Actual and necessary expenses for attendance at special meetings of the committees of the alcohol program administrators called by the director shall be legally charged against any funds available for the administration of this section

11811 7 Services financed under this part shall.

(a) Be provided on a voluntary basis only, except as provided in Article 1 5 (commencing with Section 5170) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

(b) Encourage persons utilizing services, and members of their family, to participate in community self-help groups providing ongoing support to problem drinkers and their family members

(c) Encourage persons suffering from alcoholism to abstain from the consumption of alcoholic beverages.

11811 8 The following costs shall not be eligible for state funding pursuant to this part

(a) The costs involved in a peace officer bringing a person in for 72-hour treatment and evaluation

(b) The costs of court proceedings or court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary

(c) The costs of court proceedings in cases of appeal on 14-day intensive treatment

(d) The costs of legal proceedings in conservatorship

(e) The court costs in postcertification proceedings

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to afford such assistance

11812 The following conditions shall apply to county expenditures of state funds pursuant to this part·

(a) Where the services specified in the approved plan are provided pursuant to other general health or social programs, only that portion of the services dealing with alcohol problems may be financed under this part

(b) Each county shall utilize available privately operated alcohol programs and services in the county prior to utilizing new county-operated programs and services or city-operated programs and services pursuant to Section 11796.1, when such available privately operated programs and services are as favorable in quality and cost as are those operated by the county or city When such privately operated programs and services are not available, the county shall make a reasonable effort to encourage the development of such privately operated programs and services prior to developing county-operated or city-operated programs and services The county alcohol program administrator shall demonstrate to the board of supervisors, and to the department, prior to development of any new program or service, that reasonable efforts have been made to comply with this section All such available local public or private programs and services, where appropriate, shall be utilized prior to using services provided by hospitals

(c) All personal information and records obtained by the county, any program which has a contract with the county, or the department pursuant to this section and Section 11783 shall be confidential and may be disclosed only in those instances designated in Section 5328 of the Welfare and Institutions Code

(1) Any person may bring an action against an individual who has willingly and knowingly released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts·

(A) Five hundred dollars ($500)

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

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

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

(d) The department may require that each county and any public or private provider of alcohol services which receives any state funds under this part provide such information as may be requested by the department relating to any application for or receipt of federal or other nonstate funds, including fees, donations, grants, and other revenues, for alcohol services provided by such agencies

11813 Nothing in this part shall prohibit a county from appropriating funds for alcohol programs and services in addition to the funds allocated by the department

11814. The department shall estimate an allocation of state and federal funds available for each county to implement the approved program plan In making allocations to counties, the department shall base its allocations on the population of each county. However, the department shall assure that each small population county receives a minimum amount of funds to provide adequate alcohol services The department may take into account other factors in making such allocations if the department finds that such factors relate to the level of alcohol problems in the county. Not later than 30 days after introduction of the Budget Bill, the department shall notify each county regarding its preliminary allocation under this division, pending enactment of the Budget Bill The allocation formula established pursuant to this section shall apply only to augmentations of funds to counties on or after July 1, 1980

11815 Prior to June 1 of each year, the county alcohol program administrator shall present the proposed county alcohol plan for the next fiscal year together with any comments from the advisory board to the county board of supervisors. Subject to review and any modification, the board of supervisors shall approve and authorize submission of the plan to the department pursuant to deadlines established by the department.

11815 3 When the county alcohol plan is submitted to the department, it shall be accompanied by a document which indicates that the planning process has been implemented pursuant to the provisions of this article and that the plan has been reviewed by the advisory board

11815.5. If the county desires to redirect any funds allocated by the department from the purposes identified in the county alcohol plan previously submitted to the department, the county may amend such plan and submit it to the department for approval or disapproval pursuant to this article.

11815.7. Counties may develop and implement a plan for two fiscal years upon meeting all the following conditions:

(a) The planning process during the initial year of the budget cycle shall take into account the two-year plan period.

(b) The board of supervisors shall have the power to reapprove and modify the two-year plan pursuant to the provisions of this article.

(c) The two-year plans shall be subject to appropriations by the Legislature, allocations by the department, and continued appropriation of such funds by the board of supervisors.

(d) Each county which chooses to undertake a two-year plan shall submit to the department for its approval a schedule for the planning process and plan submission to the department.

(e) All the other relevant provisions of this part that apply to one-year plans shall also apply to two-year plans.

11815.9. The department shall specify forms and procedures for the preparation, submission, and amendment of the county alcohol plan.

11816. The department shall review and approve or disapprove each county plan. Such approval or disapproval shall be subject to the amount of funds appropriated to the department pursuant to the Budget Act or other statute for that fiscal year.

In reviewing the county plan which describes the services to be funded, the department may disapprove any funds to implement the plan, or any part thereof, for any of the following reasons:

(a) The county has not properly implemented the planning process pursuant to the provisions of this part.

(b) The plan violates any federal or state laws relating to discrimination against any person because of race, creed, age, religion, sex, sexual preference, or disabling condition. In such cases, the department shall cite the applicable law and explain the legal basis for the violation

(c) The county does not provide for adequate administration of the county alcohol program.

(d) Approved services do not comply with the reasonable expenditure or program regulations adopted by the department.

11817. Upon approval by both parties, the approved county alcohol plan shall be deemed to be a contractural arrangement between the state and county.

11817.1. The department may reallocate among counties any savings which occur during the fiscal year in programs or services or any allocations either not applied for by a county or not in compliance with the provisions of this part. Reallocations may be made to counties by amendment to their county alcohol plans.

11817 3 There shall be a single state appropriation from the Budget Act to the department to fund programs and services to alleviate problems related to inappropriate alcohol use as provided for in this part.

11817 4 Alcohol services expenditures made by counties pursuant to this part shall be paid by the state pursuant to the provisions of this part.

11817 6 Payments or advances of funds to counties or other state agencies, which are properly chargeable to appropriations to the department may be made by a Controller's warrant drawn against state funds appropriated to the department or federal funds administered by the department.

11817.8. The department or the counties shall have the authority to audit or contract for auditing of any expenditure made pursuant to the state-funded alcohol program under this part The department may deny payments or advances of funds to counties if it finds by audit or otherwise that the county planning process or the county alcohol plan, or any part thereof, is not in compliance with the provisions of this part

11818. Expenditures made by counties and contract providers which may be reimbursed from funds under this part shall include expenditures for personnel, facilities, supplies, maintenance, utilities, and management services which are necessary to the provision of direct and indirect services specified in this article. The expenditures for facilities shall be determined through rent or depreciation as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part, and such other expenditures as may be approved by the director Reimbursement shall not be made for expenditures for the purchase or construction of buildings, except for such equipment items and remodeling expenses as may be provided for in regulations, or for expenditures for purposes for which state reimbursement is claimed under any other provision of law.

11818.5 Counties shall submit reports of expenditures of funds allocated by the department pursuant to this part after each fiscal year The procedures and forms for such reports, where appropriate, shall be coordinated with the procedures and forms utilized by other state health-related agencies Each county shall be responsible for reviewing its contracts with providers of services and the department may audit such contracts. Such reports shall be reviewed by the department and interim settlements of claims shall be made expeditiously with each county Final settlement shall be made at the time of audit, which shall be completed within three years of the date the report of expenditures was accepted for interim settlement by the department. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement

11819 The Legislature recognizes that alcohol programs may provide a variety of services described in this part which will vary, depending on the needs of the communities which such programs

serve. In devising a system to assure that counties have expended their funds pursuant to their approved plans and budgets, the department shall take into account the flexibility that counties shall have in the provision of services and the changing nature of alcohol programs responding to the community's needs.

The department shall devise, not later than June 30, 1981, and implement, in consultation with the county administrators and other concerned groups and individuals, a program reporting method to evidence county compliance with this part. Until such date, the department shall assure that the "payment and cost reporting system" shall not impair the implementation of the provisions of this part.

11819.1. Each county shall commence implementation of the planning process under this chapter during the 1979–80 fiscal year, and shall fully implement such process on or before July 1, 1980, for the 1980–81 plan.

Chapter 5. State and County Relationships to Health Planning Agencies

Article 1. State Agencies

11820. The Legislature recognizes the potential positive impact that federal, state and local health planning agencies can have on the alleviation of alcohol problems through better coordinated planning and utilization of limited health resources. The Legislature encourages persons concerned with alcohol problems to become involved as much as possible as representatives on health planning agencies, and committees thereof, and in providing advice and comments on health plans of such agencies.

11820.1. The department shall work together with the Office of Statewide Health Planning and Development and any other statewide health planning agencies created pursuant to Public Law 93-641 in the preparation and implementation of the state health plan required under such act The department shall seek the advice and comments of public and private agencies and individuals concerned with alcohol problems prior to submission by the department of any draft plans to the office

Article 2. County Agencies

11821. In addition to the provisions of Section 11820, the Legislature also recognizes the increased potential for coordination between county alcohol programs and local health systems agencies established pursuant to Public Law 93-641 particularly in the review of grants and state formula grant allocations from the National Institute on Alcohol Abuse and Alcoholism to state and local agencies and individuals

11821 1. The county alcohol program administrator and the

county advisory board on alcohol problems shall review and comment upon each application for provision of services to the National Institute on Alcohol Abuse and Alcoholism for federal funding by an agency or individual in the county. The alcohol program administrator shall forward such review and comments to the health systems agency in which the county is located and to the department The county shall also attempt to coordinate its planning process with the planning process of the health systems agency in order to assure that the county plan may be used by the health systems agency in its planning processes The county alcohol program administrator and the health systems agency in which the county is located, in cooperation with the department and the National Institute on Alcohol Abuse and Alcoholism, shall agree upon a memorandum of understanding, a copy of which shall be submitted with the county alcohol plan to the department, to assure effective and timely implementation of this section.

11821 3. The Legislature encourages the alcohol program administrator, members of the advisory board, and other persons concerned with alleviating alcohol problems to participate actively in the planning process undertaken by the health systems agency in which such county is located in order to assure provision of appropriate services to persons with alcohol problems in the county.

11821 5. The department shall provide for technical assistance and training to county alcohol program administrators in order to assure understanding of the provisions of Public Law 93-641 and encourage the involvement of people concerned with alleviating alcohol problems in the health systems agency planning process.

Chapter 6 Evaluation

Article 1. Statewide Evaluation

11825 It is imperative that the criteria be clearly set forth by which the effectiveness of the state-funded alcohol programs will be evaluated and that the department be required to collect in the least burdensome manner the relevant information necessary to conduct such an evaluation

11826. As provided in Section 11760 1, the Legislature has found that public attitudes toward alcohol problems and denial of alcohol problems are major barriers to alleviation and elimination of the problems related to inappropriate alcohol use. In addition, the Legislature recognizes that when people seek to overcome their alcohol problems, significant potential for successful recovery exists. The Legislature further recognizes, based upon current knowledge, that there exists a significant number of people who have alcohol problems who have not yet responded to direct or indirect services to alleviate their alcohol problems. The Legislature further recognizes that the effective provision of indirect services as described in Section 11811 will in the next few years increase demand

upon, and utilization of, existing direct services. Therefore, the effectiveness of the programs funded by the department on a statewide basis may be measured by such factors, which may include but are not limited to:

(a) Changes in the number of persons who recognize their own problem drinking or the problem drinking of those close to them

(b) Changes in utilization of public and private programs, regardless of sources of funding, and the numbers of persons served in the state in such programs

(c) Changes in attitudes of the public towards abstinence, alcoholics, and other problem drinkers.

(d) Changes in the number of individuals who seek help for their drinking problems earlier as evidenced by factors of age, damage to health, and family and occupation status. For each factor, the department shall analyze and describe the meaning of such changes In making such an evaluation study, the department shall also estimate the number of people in California who have alcohol problems and describe their demograhic characteristics. In addition, the department shall also describe what efforts have been made or recommend what efforts should be made to increase the demand by such people and their families for direct services, regardless of how funded

Within its available resources, the department shall from time to time undertake a statewide survey on a sample basis to provide as soon as possible baseline data for such measurable elements. The department shall report the results of any such survey to the Legislature each year in its annual report.

Article 2. County Program Evaluation

11827 The Legislature recognizes that local program effectiveness may be evaluated in a variety of ways, but should reflect the needs and priorities of the local community and attempt to measure the achievement of objectives determined through the planning process described in this part The Legislature further recognizes that the conducting of such evaluations is essential to holding county alcohol programs accountable for their use of state funds and increasing program effectiveness The Legislature recognizes the beneficial results of the local evaluation process to those participating in such process, as described in the county plan.

The Legislature desires to encourage experimentation and diversity in the methods utilized by counties to evaluate the county alcohol programs' achievement of their objectives, including, but not limited to, evaluations of individuals' progress, changes in utilization rates, changes in community attitudes, and measurement of specific programmatic goals in order to advance our knowledge about the effectiveness of alcohol programs in alleviating alcohol problems

11828 Each county shall assure the evaluation of all state-funded programs to determine whether they have achieved their objectives

as specified in the county alcohol plan. In addition, recognizing the difficulty and expense of conducting effective county alcohol program evaluation, the department may assist counties in developing evaluation designs for implementation by counties which may measure progress of individual problem drinkers, changes in community attitudes toward inappropriate alcohol use and problems, changes in the incidence and prevalence of alcohol problems within the county, or other objectives identified in the planning process. The department, in cooperation with counties that choose to participate, may assist and fund counties to implement the evaluation designs developed. Counties may contract with public or private agencies and utilize funds allocated under this part for purposes of conducting such evaluations.

11829. The department shall disseminate information about such evaluation projects to all counties and interested persons throughout the state in order to advance the knowledge of the field about such evaluation methodologies.

11829.3. The department shall describe in its annual report a representative variety of evaluations conducted by the counties to measure the achievement of objectives determined through the local planning process described in this part.

CHAPTER 7. QUALITY ASSURANCE STANDARDS

11830. The department, in consultation with the state advisory board, county alcohol program administrators, and other interested organizations and individuals, shall develop standards for direct and indirect services funded under this part Such standards shall be advisory unless imposed as requirements pursuant to regulation, and shall describe a minimal level of service quality and recognize and encourage elements of service quality that exceed such minimal levels.

11831. The department may certify programs, regardless of their source of funding, by applying such standards to these programs and assisting such programs to meet such standards. The department may contract with a private agency or encourage development of a private agency to assist in the certification of programs, regardless of how funded, specifically designed for problem drinkers and their families

11832. The department shall have the sole authority in state government to determine the qualifications, including the appropriate skills, education, training, and experience of personnel working within alcohol programs funded under this part.

11833. The department shall encourage the development of educational courses that provide core knowledge concerning alcohol problems and programs to personnel working within alcohol programs.

Chapter 8. Regulations

Article 1. Purposes

11835 The purposes of any regulations adopted by the department shall be to implement, interpret, or make specific the provisions of this part and shall not exceed the authority granted to the department pursuant to this part. To the extent possible, such regulations shall be written in clear and concise language and adopted only when necessary to further the purposes of this part.

Article 2 Process

11836. Except as provided for in this section, the department shall have the power to adopt regulations in accordance with the provisions of the Administrative Procedure Act necessary for the proper execution of the powers and duties granted to and imposed upon the department by this part However, such regulations may be adopted only upon the following conditions·

(a) The department shall present to the State Advisory Board at a meeting of the board the justification for considering regulations prior to the drafting and adoption of such specified regulations Subsequent to such presentation to and discussion with the board, the department shall decide whether to proceed with the drafting and adoption of such regulations

(b) Prior to adoption of regulations, the department shall consult with county alcohol program administrators and may consult with any other appropriate persons relating to such proposed regulations.

(c) If an absolute majority of the designated county alcohol program administrators, who represent counties which have submitted county alcohol plans, vote at a public meeting called by the department, for which 45 days' advance notice shall be given by the department, to reject such proposed regulations, the department shall refer the matter for a decision to a committee composed of five persons, consisting of a representative of the State Advisory Board, a representative of the alcohol administrators, the director, the secretary, and one designee of the secretary Such decision shall be made by a majority vote of such committee at a public meeting convened by the department. Upon a majority vote of such committee recommending adoption of such proposed regulations, the department may then adopt them. Upon a majority vote recommending that the department not adopt such proposed regulations, the department shall then consult again with the county administrators and advisory board and resubmit the proposed regulations to the administrators for a vote pursuant to this subdivision.

(d) In the voting process described in subdivision (c), no proxies shall be allowed nor may anyone other than the designated county alcohol program administrator, representative of the state advisory

board, director, secretary, and secretary's designee vote at such meetings.

CHAPTER 9. SERVICES TO PERSONS CONVICTED FOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL

11837. (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 designed to offer alcohol services to problem drinkers that is approved pursuant to this chapter.

(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 chapter.

(c) The court may, subject to the provisions of Section 11838 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 chapter, "program" means all the elements of the program described in the amendment to the county alcohol program plan submitted pursuant to subdivision (c) of Section 11837.6.

11837.1 (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 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.

11837 2 (a) The court may, subject to the provisions of Section 11838.2, 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 11838.2, 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 11838.

(c) Subject to the provisions of Section 11838.2, 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 11837, 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 11838 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 11838.

(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 alcohol program administrator, or (2) in a county other than the county in which such person has commenced participation in such program, upon approval of the alcohol program administrator 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 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 department, in cooperation with the Department of Motor Vehicles and alcohol program administrators, shall establish procedures to ensure the effective implementation of this section

11837.3. No person may be admitted or readmitted into a program pursuant to this chapter 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 11837 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.

11837 4 (a) The department shall have sole authority to approve programs pursuant to this chapter No program, regardless of how it

is funded, may be approved unless it meets the standards established by the 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 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 department shall ensure that such fees are set at amounts which will enable programs to provide adequately for the services required pursuant to this chapter. Such fees shall be used only for the purposes set forth in this chapter, except that any profit or surplus, that does not exceed the maximum level established by the department, may be utilized for any purposes allowable under any other provisions of law. In its standards, the department shall define, for the purposes of this paragraph, the terms profits and surplus. The department may not approve any program if the 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 alcohol 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 alcohol services for their problem drinking. In addition to the requirements of paragraph (1) of this subdivision, the 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 program effectiveness, the 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 assist persons participating in the program to recognize their problem drinking and to assist them to recover.

(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 subdivision (b) of Section 11812

(c) A county or program may not prescribe additional program requirements unless such requirements are specifically approved by

the department.

(d) The department may approve a program on a provisional basis.

11837.5. (a) No person may participate in any program that has not been approved by the department pursuant to the regulations adopted pursuant to this part.

(b) The 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 department and the Department of Motor Vehicles. All such fees received by the department shall be deposited in the General Fund for reimbursing the 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.

11837.6. (a) The Legislature recognizes that were the 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 chapter and about the impact that failure of such programs might have for the citizens of their county. 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 chapter.

(b) The board of supervisors shall delegate to the alcohol program administrator, pursuant to the provisions of Article 2 (commencing with Section 11800) of Chapter 4, the responsibility to assure compliance with the standards of the department by any program designated by the county for operation therein and approved by the 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 11800 shall assume the duties of the alcohol program administrator and administer the program pursuant to the provisions of this chapter.

(c) The alcohol program administrator shall submit to the board of supervisors a description of each plan as part of the county alcohol program

(d) In addition to the provisions of Section 11807, 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 chapter.

11837.7 (a) The alcohol program administrator, or the advisory

board acting through the alcohol program administrator, shall inform the board of supervisors immediately if it is determined that any program is not meeting the regulations adopted by the department The board of supervisors shall immediately notify the 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 department, shall withdraw approval of the program.

(b) The alcohol program 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

(c) Within its staff and time limitations, the 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 11837.5 for such reapproval

The department may contract with a private agency for the purpose of conducting such program approvals or reapprovals

(d) Notwithstanding the provisions of subdivision (a) of Section 11837 6, the department may audit, or contract for the auditing of, any approved program.

11837 8 (a) The department shall authorize each alcohol program administrator to retain, in an amount not in excess of that specified by the 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 chapter

(b) A county may not use for any purpose set forth in this chapter any funds allocated to it by the department pursuant to Chapter 10 (commencing with Section 11840). The board of supervisors may authorize the use of any other funds for any such purpose.

(c) Notwithstanding subdivision (b), a county with a population of 20,000 or less may utilize funds allocated by the department to establish and administer a program if the department finds that such county cannot establish a self-supporting program at reasonable cost or is unable to establish jointly a program with another county If such an exception is granted, reasonable effort shall be made by the county to observe the intent of subdivison (b) that programs be self-supporting

11837.9 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 11837 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 alcohol program plan

11838 (a) The Legislature encourages all counties to utilize the procedure described in this chapter, 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 Section 11796 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 11796 of this code. The board of supervisors 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 11837.6.

(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 Section 11796 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 11838.2 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 11837.2.

Counties which contract for services pursuant to subdivision (a) of this section shall notify the department not later than 14 days following such action.

11838.1. The 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 boards of supervisors, alcohol program administrators, administrators of programs, and program participants to assure effective implementation of this chapter.

11838.2. The Legislature finds and declares that, in order to provide for orderly and effective implementation of this chapter, to prevent the courts and programs in each county from being overburdened at the commencement of the implementation of this chapter, and to protect the public health and safety, this chapter shall apply only on a prospective basis Therefore, this chapter 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 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

CHAPTER 10. GENERAL FINANCIAL PROVISIONS

Article 1 County Match

11840 Each county shall provide matching funds for programs and services provided by the county under this part, as follows

(a) During the 1979–80, 1980–81, and 1981–82 fiscal years, the required county match for local participation under this chapter shall be waived except for state hospital services provided on and after January 1, 1980.

(b) From January 1, 1980, through June 30, 1982, state hospital programs shall be funded on the basis of 90 percent state funds and 10 percent county funds

(c) Commencing with the 1982–83 fiscal year and for every fiscal year thereafter, 90 percent state funds and 10 percent county funds shall be required for support of programs and services provided by a county under this part, unless a later enacted statute which is chaptered before July 1, 1982, provides a different arrangement for state and county matching funds Alcohol programs and services financed through other public or private sources as provided in the county plan shall not be considered for purposes of state and county matching funds under this part.

Article 2 Other Revenues

11841. (a) It is the intent of the Legislature that all programs funded under this part shall be partially self-supporting by raising revenues in addition to the funds allocated by the department. Such revenues may include, but are not limited to, fees for services, private contributions, grants, or other governmental funds Such revenues shall be used in support of additional alcohol services or facilities.

(b) (1) Each program funded under this part which provides direct alcohol services shall assess fees to participants in such programs.

(2) County-operated and contract providers of services shall set fees and follow fee assessment and collection practices that promote recovery from problem drinking Counties and contract providers of services may utilize a variety of methods to set and collect fees, provided, that such methods do not result in the withholding of alcohol services because of the participant's present inability to pay for such services

(3) The county alcohol program administrator shall approve the

criteria of each provider for fee collection, which shall describe how the provider charges and collects fees In collecting fees, providers shall take into account a client's income and expenses Such written criteria shall be a public record and shall be made available to the department or any individual upon request

(c) Each county shall identify in its annual report of expenditures the types and amounts of revenues raised by all the providers of services funded under this part

(d) The department shall prepare and submit a report to the Legislature on January 6, 1983, which shall describe the various criteria and procedures that providers use to charge and collect fees, the amounts of fees charged and collected, the types of services that charge and collect fees, and may include appropriate recommendations regarding this section

SEC 7 The heading of Part 3 (commencing with Section 11860) of Division 10.5 of the Health and Safety Code is amended to read:

PART 3 DIVISION OF DRUG PROGRAMS

CHAPTER 680

An act to amend Section 32002 of the Health and Safety Code, relating to health

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 32002 of the Health and Safety Code is amended to read

32002 The manner of formation of local hospital districts, and the conducting of elections, unless otherwise provided herein shall be as in the manner provided, respectively, by Chapter 1 (commencing with Section 58000) of Division 2 of Title 6 of the Government Code and Part 3 (commencing with Section 23500) of Division 12 of the Elections Code Except as provided in this chapter, all of the provisions of such chapter and part are hereby incorporated in this division by reference and shall have the same effect and force as if fully set forth herein In addition to all other requirements regarding formation of hospital districts, no hearing upon the petition to form a hospital district shall be held until there shall have been filed with the supervising authority comments and recommendations of the Office of Statewide Health Planning and Development and each area health planning agency having territory within the proposed district, concerning the need for new or additional health facilities in the area to be served by the proposed district The Office of Statewide Health Planning and Development and the area health

planning agency or agencies shall submit such comments and recommendations to the supervising authority within 60 days after receiving a request therefor from the proponents Failure to submit such comments to the supervising body within 60 days shall be deemed to constitute a "no comment" response.

SEC. 2 Section 32002 of the Health and Safety Code is amended to read:

32002. The manner of formation of local hospital districts, and the conducting of elections, unless otherwise provided herein shall be as in the manner provided, respectively, by Chapter 1 (commencing with Section 58000) of Division 2 of Title 6 of the Government Code and Part 3 (commencing with Section 23500) of Division 14 of the Elections Code. Except as provided in this division, all of the provisions of such chapter and part are hereby incorporated in this division by reference and shall have the same effect and force as if fully set forth herein. In addition to all other requirements regarding formation of hospital districts, no hearing upon the petition to form a hospital district shall be held until there shall have been filed with the supervising authority comments and recommendations of the Office of Statewide Health Planning and Development and each area health planning agency having territory within the proposed district, concerning the need for new or additional health facilities in the area to be served by the proposed district. The Office of Statewide Health Planning and Development and the area health planning agency or agencies shall submit such comments and recommendations to the supervising authority within 60 days after receiving a request therefor from the proponents. Failure to submit such comments to the supervising body within 60 days shall be deemed to constitute a "no comment" response.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 1047 are both chaptered and become effective January 1, 1980, both bills amend Section 32002 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 1047, that the amendments to Section 32002 proposed by both bills be given effect and incorporated in Section 32002 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 1047 are both chaptered and become effective January 1, 1980, both amend Section 32002, and this bill is chaptered after Assembly Bill 1047, in which case Section 1 of this act shall not become operative

---

CHAPTER 681

An act to amend Section 9230 of, and to add Article 4 (commencing with Section 9240) and Article 5 (commencing with Section 9250) to Chapter 2 of Part 4 of Division 2 of Title 1, and to repeal Article 4 (commencing with Section 9240) of Chapter 2 of Part 4 of Division

2 of Title 1, the Corporations Code, relating to corporations

[Approved by Governor September 14, 1979 Filed with Secretary of State September 14, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 9230 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

9230 (a) Upon reasonable grounds to believe that the following condition or conditions have occurred or do exist, the Attorney General may, at reasonable times, examine a corporation to determine whether

(1) The corporation fails to qualify as a religious corporation under this part, or

(2) There is or has been any fraudulent activity in connection with the corporation's property, or

(3) Any corporate property is or has been improperly diverted for the personal benefit of any person; or

(4) Property solicited and received from the general public, based on a representation that it would be used for a limited purpose other than general support of the corporation's religious activities, has been improperly used in a manner inconsistent with the stated purpose for which the property was solicited; or

(5) There has been a substantial diversion of corporate assets from stated corporate purposes

(b) Such examination shall respect privileges enumerated in Division 8 (commencing with Section 900) of the Evidence Code and shall protect the confidential nature of membership lists by using such lists only in connection with the examination and any subsequent court proceeding. In addition, such examination shall not unnecessarily interfere with normal operations and religious observances of the corporation

(c) The Attorney General may institute an action in the name of the state to enforce the right of examination set forth in subdivision (a)

(d) For reasonable cause, the Attorney General may institute an action in the name of the state

(1) To establish that the corporation fails to qualify as a religious corporation under this part, and if a court so finds it shall enter an order that the corporation shall no longer operate as a religious corporation under this part

(2) To correct any wrongful activity which has taken place in connection with or as a result of any condition or conditions set forth in paragraph (2), (3), (4) or (5) of subdivision (a)

SEC 1.5 Article 4 (commencing with Section 9240) is added to Chapter 2 of Part 4 of Division 2 of Title 1 of the Corporations Code, to read

Article 4. Standards of Conduct

9240. (a) Any duties and liabilities set forth in this article shall apply without regard to whether a director is compensated by the corporation.

(b) Article 2 (commencing with Section 2228) of Chapter 1, and Article 2 (commencing with Section 2258) of Chapter 2 of Title 8 of Part 4 of Division 3 of the Civil Code shall not apply to the directors of any corporation.

(c) A director, in making a good faith determination, may consider what the director believes to be.

(1) The religious purposes of the corporation; and

(2) Applicable religious tenets, canons, laws, policies, and authority.

9241. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as is appropriate under the circumstances.

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;

(2) Counsel, independent accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence;

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence; or

(4) Religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented, so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances, and without knowledge that would cause such reliance to be unwarranted.

(c) The provisions of this section, and not Section 9243, shall govern any action or omission of a director in regard to the compensation of directors, as directors or officers, or any loan of money or property to or guaranty of the obligation of any director or officer. No obligation, otherwise valid, shall be voidable merely because directors who benefited by a board resolution to pay such compensation or to make such loan or guaranty participated in making such board resolution.

(d) Except as provided in Section 9243, a person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge his or her obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat any purpose to which the corporation, or assets held by it, may be dedicated

9242 (a) Section 9241 governs the duties of directors as to any acts or omissions in connection with the election, selection, or nomination of directors.

(b) This section shall not be construed to limit the provisions of Section 9241.

9243. (a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest. Such a director is an "interested director" for the purpose of this section.

(b) The provisions of this section do not apply to

(1) An action of the board fixing the compensation of a director as a director or officer of the corporation or making any loan of money or property to or guaranteeing the obligation of any director or officer;

(2) A transaction which is part of a public, charitable or religious program of the corporation if it· (i) is approved or authorized by the corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public, charitable or religious program; or

(3) A transaction, of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of 1 percent of the gross receipts of the corporation for the preceding fiscal year or one hundred thousand dollars ($100,000)

(c) Any of the following may bring an action in the superior court for the remedies specified in subdivision (h)

(1) The corporation, or a member asserting the right in the name of the corporation, provided that for the purpose of this paragraph the provisions of Section 5710 shall apply to such action;

(2) A director of the corporation,

(3) An officer of the corporation, or

(4) Any person authorized by the bylaws to bring an action.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if

(1) The Attorney General, or the court in an action in which the Attorney General is an indispensable party, has approved the transaction before or after it was consummated, or

(2) The person asserting the validity of the transaction sustains the burden of proving that

(A) The corporation entered into the transaction for its own benefit or for the benefit of the religious organization,

(B) The transaction was fair and reasonable as to the corporation or was in furtherance of its religious purposes at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction. Except as provided in paragraph (3) of this subdivision, action by a committee of the board shall not satisfy this paragraph; and

(D) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the transaction was fair and reasonable as to the corporation or that it was in furtherance of its religious purposes, or

(3) The person asserting the validity of the transaction sustains the burden of proving that·

(A) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in paragraph (2) of this subdivision;

(B) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(C) The board, after determining in good faith that the conditions of subparagraphs (A) and (B) of this paragraph were satisfied, ratified the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

(e) Except as provided in subdivision (f), an action under subdivision (c) or Section 9230 shall be commenced within two years after written notice setting forth the material facts of the transaction is filed with the Attorney General in accordance with such regulations, if any, as the Attorney General may adopt or if no such notice is filed, 10 years after the cause of action has accrued.

(f) In any action for breach of an obligation of the corporation owed to an interested director, where the obligation arises from a self-dealing transaction which has not been approved as provided in subdivision (d), the court may, by way of offset only, make any order authorized by subdivision (h), notwithstanding the expiration of the applicable period specified in subdivision (e)

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction

(h) If a self-dealing transaction which has not been approved as provided in subdivision (d) has taken place, the interested director or directors shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation taking into account any benefit received by the corporation and whether the interested director or directors acted

in good faith and with intent to further the best interest of the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transactions; and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate.

The court may award prejudgment interest to the extent allowed in Sections 3287 and 3288 of the Civil Code. In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section

9244 (a) No contract or other transaction between a corporation and any domestic or foreign corporation, firm or association of which one or more of its directors are directors is either void or voidable because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if:

(1) The material facts as to the transaction and as to such director's other directorship are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director or directors; or

(2) As to contracts or transactions not approved as provided in paragraph (1) of this subdivision, the contract or transaction is just and reasonable as to the corporation, taking into account its religious purposes, or is in furtherance of its religious purposes at the time it is authorized, approved or ratified

(b) This section does not apply to transactions covered by Section 9243.

9245 (a) Subject to the provisions of Section 9241, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation for

(1) The making of any distribution

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Section 9680 and those sections made applicable to this part by Section 9680

(3) The making of any loan or guaranty contrary to Section 9241

(b) Suit may be brought in the name of the corporation to enforce the liability

(1) Under paragraph (1) of subdivision (a) against any or all

directors liable by the persons entitled to sue under subdivision (b) of Section 9610;

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment.

(c) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guaranty.

(d) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action

(e) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation as follows·

(1) With respect to paragraph (1) of subdivision (a), against members who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the members who received the distribution

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guaranty.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to such director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action

9246. (a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such precedessor corporation; "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (3) of subdivision (e).

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section 9243, or an action brought by the Attorney General pursuant to Section 9230) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person believed to be in the best interests of the

corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, or brought under Section 9243, or brought by the Attorney General pursuant to Section 9230, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if the person acted in good faith, in a manner in which such person believed to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinary prudent person in a like position would use under similar circumstances. No idemnification shall be made under this subdivision:

(1) In respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(2) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(3) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval unless it is settled with the approval of the Attorney General

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in either subdivision (b) or (c) by

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding;

(2) Approval of the members (Section 5034), with the persons to

be indemnified not being entitled to vote thereon; or

(3) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this section

(g) No provision made by a corporation to indemnify its or its susidiary's directors or officers for the defense of any proceeding, whether contained in the articles, bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this section Nothing contained in this section shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (3) of subdivision (e), in any circumstance where it appears that

(1) It would be inconsistent with a provision of the articles, bylaws, a resolution of the members or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification, or

(2) It would be inconsistent with any condition expressly imposed by a court in approving a settlement

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this section, provided, however, that a corporation shall have no power to purchase and maintain such insurance to indemnify any agent of the corporation for a violation of Section 9243

(j) This section does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent as defined in subdivision (a) of the employer corporation A corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207

SEC 2 Article 5 (commencing with Section 9250) is added to Chapter 2 of Part 4 of Division 2 of Title 1 of the Corporations Code, to read

Article 5. Investments

9250 In investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing a corporation's investments, the board shall meet the standards set forth in Section 9241.

9251 Nothing in Section 9250 shall abrogate or restrict the power of a court in proper cases to direct or permit a corporation to deviate from the terms of a trust or agreement regarding the making or retention of investments

SEC. 3 Article 4 (commencing with Section 9240) of Chapter 2 of Part 4 of Division 2 of Title 1 of the Corporations Code is repealed.

CHAPTER 682

An act to add Section 731 5 to the Code of Civil Procedure, relating to public trails

[Approved by Governor September 14, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1. Section 731 5 is added to the Code of Civil Procedure, to read

731.5 Whenever any person unlawfully closes any public trail, any person who uses such trail or would use such trail, and any association, corporation or other entity whose membership as a whole is adversely affected by such closure may bring an action to enjoin such closure.

The prevailing party in such action shall be entitled to recover reasonable attorney's fees, in addition to court costs

As used in this section, a public trail is any trail to which the public in general has a right of access, which right is established pursuant to a recorded document conveying to a political corporation or governmental agency, specifying the nature of such public trail, specifically describing the location thereof, and naming the record owners of the real property over which such trail exists if created by a license, permit or easement. It includes, but is not limited to, pedestrian, equestrian, and boating trails, but does not include any public street, road, or highway

CHAPTER 683

An act to amend Section 1352 of the Fish and Game Code, relating to public resources, and making an appropriation therefor

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1 Section 1352 of the Fish and Game Code is amended to read.

1352. (a) The money in the Wildlife Restoration Fund, as provided for by Section 19632 of the Business and Professions Code, is available for expenditure under any provision of this chapter.

(b) All federal moneys made available for projects authorized by the board shall be deposited in the Wildlife Restoration Fund Any unexpended balances of such federal moneys remaining on or after June 30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund

SEC. 2. The Legislature hereby finds and declares that the East Bay Regional Park District, the Wildlife Conservation Board, and the Department of Transportation are cooperating in the development of a fishing pier, using part of the remaining structure of the old Antioch Bridge, which when complete will provide important public access to the fishery resources of the Sacramento-San Joaquin River System Title to the fishing pier and the adjoining seven-acre shoreline park will remain with the state, and the East Bay Regional Park District has agreed to operate and maintain the fishing pier and park on behalf of the state for 25 years. This act is necessary for the full implementation of the East Bay Regional Park District's agreement with the Department of Fish and Game and the Department of Transportation.

SEC. 3 If the Director of Finance determines that the income level of the general fund of the East Bay Regional Park District is reduced for two consecutive fiscal years below the level for the 1978–79 fiscal year, adjusted annually by any change in the United States cost-of-living index, and that the district has been unable to transfer responsibility for the operation and maintenance of the fishing pier and adjoining seven-acre shoreline park to another local or regional agency, the Department of Parks and Recreation shall assume responsibility from the district for the operation and maintenance of the fishing pier and adjoining seven-acre shoreline park as a part of the Brannan Island State Recreation Area, until such time as the Director of Finance determines that the district is financially capable of reassuming responsibility for the operation and maintenance of such facilities. No transfer of such responsibility shall be made without the consent of the Wildlife Conservation Board

SEC. 4 The sum of fifty-four thousand dollars ($54,000) is hereby

appropriated from the General Fund to the Department of Finance for allocation, without regard to fiscal years, to the Department of Parks and Recreation at such time as a determination is made pursuant to Section 3.

CHAPTER 684

An act to amend Sections 987 53, 987.62, 987.65, and 987.655 of the Military and Veterans Code, relating to veterans' farm and home purchase

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1. Section 987.53 of the Military and Veterans Code is amended to read

987.53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to

which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property on which is sited one or more mobilehome modules, or a site in a mobilehome park as defined in Section 18214 of the Health and Safety Code on which one or more mobilehome modules is sited or is to be sited as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long

SEC. 15. Section 98753 of the Military and Veterans Code is amended to read

98753. (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing income sufficient to provide for payment of the amortized contract installments including principal, interest, and taxes

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of

the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property on which is sited one or more mobilehome modules, or a site in a mobilehome park as defined in Section 18214 of the Health and Safety Code on which one or more mobilehome modules is sited or is to be sited as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

SEC 17 Section 987.53 of the Military and Veterans Code is amended to read·

987.53 (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient to provide a living for the purchaser and his dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section. It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode A condominium may include in addition a separate interest in other portions of such real property

(i) "Effective rate of interest" means the average interest rate of

the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property on which is sited one or more mobilehome modules, or a site in a mobilehome park as defined in Section 18214 of the Health and Safety Code on which one or more mobilehome modules is sited or is to be sited as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions, provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Indian veteran" means a veteran as defined in Section 980 who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase by the department of a home or farm situated on trust land

(m) "Trust land," with respect to an Indian veteran includes allotment trust land and tribal trust land.

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs

SEC. 1.9 Section 987.53 of the Military and Veterans Code is amended to read·

987 53. (a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient income to provide payment of the amortized contract installments including principal, interest, and taxes

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the

department, suit the needs of the purchaser and his dependents as a place of abode. It includes a "condominium," as defined in subdivision (h) of this section It also includes a "mobilehome" as defined in subdivision (k) of this section

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) As used in this article, "progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) As used in this article, "condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on such real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and his dependents as a place of abode. A condominium may include in addition a separate interest in other portions of such real property.

(i) "Effective rate of interest" means the average interest rate of the interest on the unpaid balance due on a participation contract to which the interest of the department is subject, and the interest rate on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) As used in this article, "mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is sited one or more mobilehome modules, or a site in a mobilehome park as defined in Section 18214 of the Health and Safety Code on which one or more mobilehome modules is sited or is to be sited as will, in the opinion of the department, suit the needs of the purchaser and his dependents as a place of abode and meets all requirements of local governmental jurisdictions; provided, that where such mobilehome module or modules are situate on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Indian veteran" means a veteran as defined in Section 980 who is, in addition, a member of any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs and who is eligible under this article for purchase

by the department of a home or farm situated on trust land.

(m) "Trust land," with respect to an Indian veteran includes allotment trust land and tribal trust land

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs

SEC. 2. Section 987 62 of the Military and Veterans Code is amended to read:

987 62 The department, after consummating a purchase under the provisions of this article and the veteran having occupied the property as required by Section 987.60 of this article, may waive the occupancy requirement for a period not to exceed four years on a showing of good cause. The department may also waive the occupancy requirement for any period of time if the property is a farm and if the veteran personally cultivates the property and harvests the crops or tends livestock. The department shall establish standards for the occupancy waiver and shall make those standards known. The department shall waive the occupancy requirement in any case where the State Department of Health determines that health hazards on adjacent property render the farm, home, or mobilehome unsuitable for occupancy, and such waiver shall be effective as long as such conditions exist.

SEC. 3. Section 987.65 of the Military and Veterans Code, as amended by Chapter 121 of the Statutes of 1979, is amended to read·

987 65. The purchase price of a home to the department or the sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements shall not exceed the sum of fifty-five thousand dollars ($55,000), except that the purchase price of a mobilehome sited on a lot owned by the purchaser shall not exceed thirty thousand dollars ($30,000), or of a mobilehome which is to be sited in a mobilehome park as defined in Section 18214 of the Health and Safety Code shall not exceed twenty-two thousand five hundred dollars ($22,500) and a veteran purchasing the home may advance, subject to the provisions of Section 987.64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required under Section 987 69 of this code to add to the purchase price of the home in fixing the selling price thereof to the veteran Any amount of the

purchase price to the department may be provided by funds from participation contracts or revenue bonds. The purchase price of a farm to the department shall not exceed one hundred twenty thousand dollars ($120,000), and a veteran purchasing the farm may advance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 987 69 of this code to add to such purchase or contract price to the department in fixing the selling price of the farm to the veteran

SEC 3 5 Section 987 65 of the Military and Veterans Code as amended by Chapter 121 of the Statutes of 1979, is amended to read:

987 65 The purchase price of a home to the department or the sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements shall not exceed the sum of fifty-five thousand dollars ($55,000), except that the purchase price of a mobilehome sited on a lot owned by the purchaser shall not exceed thirty thousand dollars ($30,000), or of a mobilehome which is to be sited in a mobilehome park as defined in Section 18214 of the Health and Safety Code shall not exceed twenty-two thousand five hundred dollars ($22,500) and a veteran purchasing the home may advance, subject to the provisions of Section 987 64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required under Section 987 69 of this code to add to the purchase price of the home in fixing the selling price thereof to the veteran. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds The purchase price of a farm to the department shall not exceed one hundred eighty thousand dollars ($180,000), and a veteran purchasing the farm may . dvance the difference between the total price of the farm or cost of the dwelling and improvements to be constructed on a farm under a contract and the sum of such purchase price to the department or contract price to the department and any amount which the department is required under Section 987 69 of this code to add to such purchase or contract price to the department in fixing the selling price of the farm to the veteran

SEC 4 Section 987.655 of the Military and Veterans Code is amended to read

987 655 For a mobilehome which is to be sited in a mobilehome park as defined in Section 18214 of the Health and Safety Code, the department shall charge a rate of interest 1 percent higher than that which is charged to purchasers of conventional housing or of a mobilehome sited on a lot owned by the purchaser.

SEC 5 It is the intent of the Legislature that if this bill and Assembly Bill 185 or Senate Bill 572, or both, are chaptered and become effective January 1, 1980, each of the bills amend Section

987.53 of the Military and Veterans 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 185 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53 of the Military and Veterans Code, but Senate Bill 572 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 185, the amendments proposed by both bills shall be given effect and incorporated in Section 987.53 in the form set forth in Section 1.5 of this act. Therefore, if this bill and Assembly Bill 185 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53, this bill is chaptered after Assembly Bill 185, and Senate Bill 572 is not chaptered or as chaptered does not amend that section, Section 1.5 of this act shall be operative and Sections 1, 1.7, and 1.9 of this act shall not become operative.

(2) If this bill and Senate Bill 572 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53 of the Military and Veterans Code, but Assembly Bill 185 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 572, the amendments proposed by both bills shall be given effect and incorporated in Section 987.53 in the form set forth in Section 1.7 of this act. Therefore, if this bill and Senate Bill 572 are both chaptered and become effective January 1, 1980, both bills amend Section 987.53, this bill is chaptered after Senate Bill 572, and Assembly Bill 185 is not chaptered or as chaptered does not amend that section, Section 1.7 shall be operative and Sections 1, 1.5, and 1.9 of this act shall not become operative.

(3) If this bill and Assembly Bill 185 and Senate Bill 572 are all chaptered and become effective January 1, 1980, all three bills amend Section 987.53 of the Military and Veterans Code, and this bill is chaptered after Assembly Bill 185 and Senate Bill 572, the amendments proposed by all three bills shall be given effect and incorporated in Section 987.53 in the form set forth in Section 1.9 of this act. Therefore, if this bill and Assembly Bill 185 and Senate Bill 572 are all chaptered and become effective January 1, 1980, all three bills amend Section 987.53 of the Military and Veterans Code, and this bill is chaptered after Assembly Bill 185 and Senate Bill 572, Section 1.9 of this act shall be operative and Sections 1, 1.5, and 1.7 of this act shall not become operative.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill 185 are both chaptered and become effective January 1, 1980, both bills amend Section 987.65 of the Military and Veterans Code, and this bill is chaptered after Assembly Bill 185, that the amendments to Section 987.65 proposed by both bills be given effect and incorporated in Section 987 65 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 185 are both chaptered and become effective January 1, 1980, both amend Section 987.65, and this bill is chaptered after Assembly Bill 185, in which case Section 3 of this act

shall not become operative

CHAPTER 685

An act to amend Section 35414 of the Vehicle Code, relating to vehicles

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1. The Legislature finds and declares that amending Section 35414 of the Vehicle Code to exempt loads consisting of single unit component parts from the length limitations of Sections 35410 and 35411 of the Vehicle Code will facilitate efficient and energy conserving conduct of interstate commerce, as well as minimizing opportunity for accidents which could be created by overhanging loads on vehicles

SEC. 2 Section 35414 of the Vehicle Code is amended to read:

35414 (a) The limitations of this chapter as to length of vehicles and loads shall not apply when only poles, timbers, pipes, integral structural materials, or single unit component parts, including, but not limited to, missile components, aircraft assemblies, drilling equipment, and tanks not exceeding 80 feet in length are being transported.

(1) Upon a pole or pipe dolly or otherwise lawful trailer used as a pole or pipe dolly in connection with a motor vehicle.

(2) Upon a semitrailer, except for the limitations provided in Section 35410.

(3) Upon a semitrailer and a pole or pipe dolly used in connection with a truck tractor to haul flexible integral structural material.

The provisions of this subdivision shall not apply if materials are loaded in tandem.

(b) Tools and materials incidental to the work to be performed may be transported on a single-axle pole or pipe dolly or otherwise lawful single-axle semitrailer used as a pole or pipe dolly, transporting not more than three poles not exceeding 80 feet in length and when used by public utility companies or local public agencies engaged in the business of supplying electricity or telephone service, by the Department of Transportation, or by a licensed contractor in the performance of work for a utility, the department, or a local public agency, when such transportation is between a storage yard and job location where such tools and materials are to be used, in which event the limitations of this chapter as to length of vehicles and loads shall not apply.

CHAPTER 686

An act to amend Sections 82030, 87103, 87207, and 87303 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1 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 also includes an outstanding loan. 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 financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency,

(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 or loans from a commercial lending institution which are made in the lender's regular course of business on terms available

to members of the public without regard to official status if:

(A) Used to purchase the principal residence of filer; or

(B) The balance owed does not exceed ten thousand dollars ($10,000).

(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

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status, so long as the balance owed to the creditor does not exceed ten thousand dollars ($10,000)

SEC 1 5 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 also includes an outstanding loan. 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 financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency,

(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 or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status if:

(A) Used to purchase the principal residence of filer; or

(B) The balance owed does not exceed ten thousand dollars ($10,000);

(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;

(10) Any indebtedness created as part of a retail installment or credit card transaction if made in the regular course of business on terms available to members of the public without regard to official status, so long as the balance owed to the creditor does not exceed ten thousand dollars ($10,000);

(11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401 (a).

SEC. 2. Section 87103 of the Government Code is amended to read:

87103. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the public official has a direct or indirect investment worth more than one thousand dollars ($1,000);

(b) Any real property in which the public official has a direct or indirect interest worth more than one thousand dollars ($1,000);

(c) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars ($250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made; or

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, by any business entity controlled by the public official or by a trust in which he has a substantial interest. A business entity is controlled by a public official if the public official, his agents, spouse and dependent

children hold more than 50 percent of the ownership interest in the entity A public official has a substantial interest in a trust when the official, his spouse and dependent children have a present or future interest worth more than one thousand dollars ($1,000).

SEC. 2.5. Section 87103 of the Government Code is amended to read:

87103. An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the public official has a direct or indirect investment worth more than one thousand dollars ($1,000);

(b) Any real property in which the public official has a direct or indirect interest worth more than one thousand dollars ($1,000);

(c) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars ($250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made; or

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official or by a business entity or trust in which the official, the official's agents, spouse and dependent children own directly, indirectly or beneficially a 10-percent interest or greater.

SEC. 3. Section 87207 of the Government Code is amended to read·

87207. (a) When income is required to be reported under this article, the statement shall contain, except as provided in subsection (b):

(1) The name and address of each source of income aggregating two hundred fifty dollars ($250) or more in value, or twenty-five dollars ($25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

(2) A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was greater than one thousand dollars ($1,000), and whether it was greater than ten thousand dollars ($10,000);

(3) A description of the consideration, if any, for which the income was received,

(4) In the case of a gift, the amount and the date on which the gift was received

(5) In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(b) When income of a business entity, including income of a sole

proprietorship, is required to be reported under this article, the statement shall contain.

(1) The name, address, and a general description of the business activity of the business entity,

(2) In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars ($1,000);

(3) In the case of a business entity not covered by paragraph (2), the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000) during a calendar year.

SEC 4. Section 87303 of the Government Code is amended to read

87303 No conflict of interest code shall be effective until it has been approved by the code-reviewing body Each agency shall submit a proposed conflict of interest code to the code-reviewing body by the deadline established for the agency by the code-reviewing body The deadline for any agency in existence on April 1, 1975, shall not be later than June 30, 1980 The deadline for any agency not in existence on April 1, 1975, shall be six months after it comes into existence Within 90 days after receiving the proposed code or receiving any proposed amendments or revisions, the code-reviewing body shall·

(a) Approve the proposed code as submitted,

(b) Revise the proposed code and approve it as revised; or

(c) Return the proposed code to the agency for revision and resubmission within 60 days. The code-reviewing body shall either approve the revised code or revise it and approve it. When a proposed conflict of interest code or amendment is approved by the code-reviewing body, it shall be deemed adopted and shall be promulgated by the agency.

SEC 4 5. It is the intent of the Legislature, if this bill and Assembly Bill 1682 are both chaptered and become effective January 1, 1980, both bills amend Section 82030 of the Government Code, and this bill is chaptered after Assembly Bill 1682, that the amendments to Section 82030 proposed by both bills be given effect and incorporated in Section 82030 in the form set forth in Section 1.5 of this act Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 1682 are both chaptered and become effective January 1, 1980, both amend Section 82030, and this bill is chaptered after Assembly Bill 1682, in which case Section 1 of this act shall not become operative.

SEC 4 6 It is the intent of the Legislature, if this bill and Assembly Bill 1682 are both chaptered and become effective January 1, 1980, both bills amend Section 87103 of the Government Code, and this bill is chaptered after Assembly Bill 1682, that the amendments to Section 87103 proposed by both bills be given effect and

incorporated in Section 87103 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 1682 are both chaptered and become effective January 1, 1980, both amend Section 87103, and this bill is chaptered after Assembly Bill 1682, in which case Section 2 of this act shall not become operative.

SEC. 5. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 6. The amendment 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 amendment not been effected.

CHAPTER 687

An act to amend Sections 8516 and 8556 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) The provisions of this section shall apply only to wood-destroying pests or organisms.

(b) No licensee shall commence work on a contract, or sign, issue or deliver any documents expressing an opinion or statement relating to the absence or presence of wood-destroying pests or organisms until an inspection has been made. The licensee shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or his designated agent. A copy of each such report shall be filed with the board at the time the report is delivered or not later than five days after the date the inspection is made. The report shall be delivered to the person requesting the inspection, or his designated agent before work is commenced. The following shall be set forth in the report:

1 The date of the inspection and the name of the person making the inspection

2. The name and address of the person or firm ordering the report.

3 The name and address of any person who is a party in interest to whom the board is to send certified copies of inspection reports

and completion notices as provided in subdivision (e) of this section.

4. The address or location of the property.

5 A general description of the building or premises inspected.

6. A foundation diagram or sketch of the structure or structures or portions of such structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions exist which would ordinarily subject such parts to attack by wood-destroying pests or organisms

7 Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces or other parts subject to attack by wood-destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions and insufficient ventilation are to be reported.

8. Indication or description of any areas normally subject to damage which are inaccessible or for other reason not inspected, with suggestion for further inspection if practicable. If, after the report has been made in compliance with the provisions of this section, authority is given later to open inaccessible areas, a supplementary report on conditions in these areas shall be made.

9. Recommendations for corrective measures.

10 The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate shall be given with the original inspection report if the person who ordered the original inspection report so requests, and if the licensee is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the licensee shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the firm's original inspection price and shall be completed within 10 working days after such a reinspection has been ordered.

(c) Such report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect

(d) Control service is defined as the regular reinspection of a property after a report has been made in compliance with the provisions of this section and such corrections as have been agreed upon have been completed. Under a control service agreement a licensee shall refer to the original report and contract in such manner as to identify them clearly, and said report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A licensee is not required to issue a report as outlined in subsections 1 to 9 inclusive after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood-destroying pests or organisms and the portions of the buildings or structures covered by such contract.

(e) Whenever a report is filed pursuant to subdivision (b) of this section, the board shall forthwith send to any person or firm designated under paragraph 3 of said subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years.

(f) All work recommended by a structural pest control licensee, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the licensee with the inspection report copy for two years.

SEC. 2. Section 8556 of the Business and Professions Code is amended to read·

8556. (a) Licensed contractors acting in their capacity as such, may remove and replace any structure or portions of a structure damaged by wood-destroying pests or organisms if such work is incidental to other work being performed on the structure involved or if such work has been identified by a structural pest control inspection report.

This exemption does not authorize the performance of any other acts defined in Section 8505

(b) A licensed contractor may contract for the performance of any soil treatment pest control work to eliminate, exterminate, control, or prevent infestations or infections of pests or organisms in the ground beneath or adjacent to any existing building or structure or in or upon any site upon which any building or structure is to be constructed, but the actual performance of any such work must be done by a structural pest control operator

SEC 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction It is recognized, however, that a local agency or school district may

pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 688

An act to amend Section 654 of, and to repeal and add Section 4080 5 to, the Business and Professions Code, relating to pharmacy

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 654 of the Business and Professions Code is amended to read

654 No person licensed under Chapter 5 (commencing with Section 2000) of this division may have any membership, proprietary interest or coownership in any form in or with any person licensed under Chapter 5 5 (commencing with Section 2550) of this division to whom patients, clients or customers are referred or any profit-sharing arrangements

SEC 2. Section 4080 5 is added to the Business and Professions Code, to read

4080 5. (a) The board shall not issue any new permit nor shall any existing permit be renewed after January 1, 1985, to conduct a pharmacy to any of the following.

(1) A person or persons authorized to prescribe or write a prescription, as specified in Section 4036, in the State of California

(2) A person or persons with whom a person or persons specified in paragraph (1) shares a community or other financial interest in the permit sought

(3) A corporation which is controlled by, or in which 10 percent or more of the stock is owned by a person or persons prohibited from pharmacy ownership by paragraph (1) or (2)

(b) Subdivision (a) shall not preclude the issuance of a permit for an inpatient hospital pharmacy, as defined in Section 4035 1, to the owner of the hospital in which it is located or a pharmacy as defined in Section 4035 whose owner is a registered nurse, physician's assistant, or a registered 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

(c) The board may require information necessary for the enforcement of this section

CHAPTER 689

An act to add Sections 27604 and 27605 to the Vehicle Code, relating to law enforcement vehicles.

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1. Section 27604 is added to the Vehicle Code, to read:

27604. When a motor vehicle, painted, as required by Section 40800, and formerly used in the enforcement of the provisions of Division 10 (commencing with Section 20000) or 11 (commencing with Section 21000), is sold to any person and is used for purposes other than law enforcement, the vehicle shall be painted or partially painted by the seller or agency formerly using such vehicle so that it will no longer resemble a vehicle complying with Section 40800 and any insignia or other marking of the vehicle identifying it as a traffic law enforcement vehicle shall be removed by the seller or agency formerly using such vehicle before it shall be operated on any street or highway, other than to have the vehicle moved to be painted or to a place of storage

The provisions of this section do not apply to former law enforcement vehicles, without insignia, which are painted one solid color, or which are used exclusively for movie or television production and display signs stating "movie car" prominently on the doors.

SEC 2. Section 27605 is added to the Vehicle Code, to read:

27605. No person shall own or operate a motor vehicle painted in the manner described in Section 40800 to resemble a motor vehicle used by a peace officer or traffic officer on duty for the primary purpose of enforcing the provisions of Division 10 (commencing with Section 20000) or 11 (commencing with Section 21000) pursuant to Section 40800.

The provisions of this section do not apply to vehicles which are painted one solid color. Nor do these provisions apply to vehicles which are any of the following:

(a) Owned by vehicle manufacturers or dealers.

(b) Used by law enforcement agencies in the enforcement of the provisions of Division 10 (commencing with Section 20000) or 11 (commencing with Section 21000).

(c) Owned by persons or companies who use the vehicles exclusively for movie or television production and display signs stating "movie car" prominently on the doors.

SEC 3 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253 2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act

---

CHAPTER 690

An act relating to juvenile court law, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1. The sum of nine million dollars ($9,000,000) is hereby appropriated from the General Fund to the State Controller for disbursement to counties for reimbursement for costs incurrred pursuant to Chapter 1071 of the Statutes of 1976 during fiscal years 1976–77 and 1977–78, upon approval of claims for such reimbursement pursuant to Section 11 of Chapter 1241 of the Statutes of 1977, as amended by Chapter 464 of the Statutes of 1978.

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

In order for counties to be promptly and fully reimbursed for costs imposed by Chapter 1071 of the Statutes of 1976, it is necessary that this act take effect immediately.

CHAPTER 691

An act to add Section 24304 5 to the Government Code, relating to counties, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1 Section 24304.5 is added to the Government Code, to read:

24304.5. Notwithstanding the provisions of Section 24300 and 24304, in counties of the 18th class, the board of supervisors by ordinance may consolidate the duties of the county offices of assessor and recorder

SEC 2 The Legislature finds that unique and special circumstances exist in Marin County for which a general statute cannot be made applicable In Marin County there is a high level of interface between the offices of the county assessor and county recorder. Annually, about 76 percent of the documents filed with the county recorder in Marin County have had a direct or indirect bearing on one or more functions of the county assessor in Marin County. By consolidating the offices of the county assessor and county recorder in Marin County, the county would be able to consolidate management, clerk, and keypunch positions as well as integrate record systems for an estimated total savings of $125,000 annually

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 County of Marin may avail itself of the cost savings afforded by this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 692

An act to amend Sections 37000 and 37001 of, and to add Sections 37001.3 and 37001.5 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 37000 of the Health and Safety Code is amended to read

37000 The Legislature finds and declares that Article XXXIV of the State Constitution was approved by the voters for the purpose of providing a mechanism for expressing community concern regarding the development, acquisition, or construction of federally subsidized conventional public housing projects Such developments typically were different from and inconsistent with housing developments provided by the private sector Such differences

included architecture, design, and locational standards as well as the level of amenities provided. Such developments were occupied entirely by persons of low income, and usually were not subject to ad valorem property taxes.

The Legislature finds and declares that new forms of housing assistance can provide housing for persons of low income in a manner consistent with and supportive of optimum community improvement. Such forms of housing assistance may allow for mixed income occupancy in developments representative of and competitive with similar market rate developments provided by the private sector. Such mixed income developments are frequently comparable to market rate projects in terms of architecture, design, and locational standards as well as the level of amenities provided, and may be subject to ad valorem property taxes.

Recognizing that new forms of housing assistance provide new approaches for housing persons of low income, it is the intent of the Legislature in enacting Sections 37001, 37001.3, and 37001.5 to clarify ambiguities relating to the scope of the applicability of Article XXXIV which now exist. Therefore, and pursuant to Section 2 of Article XXXIV, this part is enacted in order to facilitate the operation of Article XXXIV and is consistent with the provisions of that article.

The terms "state public body" and "persons of low income" as used in this part have the same meaning as in Article XXXIV.

SEC 2 Section 37001 of the Health and Safety Code is amended to read

37001 The term "low-rent housing project" as defined in Section 1 of Article XXXIV of the State Constitution, does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations, which meets any one of the following criteria

(a) (1) The development is privately owned housing, receiving no ad valorem property tax exemption not fully reimbursed to all taxing entities; and (2) not more than 49 percent of the dwellings, apartments, or other living accommodations of such development may be occupied by persons of low income.

(b) The development is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body.

(c) The development is intended for owner-occupancy, which may include cooperative or condominium ownership, rather than for rental-occupancy.

(d) The development consists of newly constructed, privately owned, one-to-four family dwellings not located on adjoining sites.

(e) The development consists of existing dwelling units leased by the state public body from the private owner of such dwelling units.

(f) The development consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project.

SEC 3 Section 37001 3 is added to the Health and Safety Code,

to read

37001 3 The maximum income of "persons of low income," as determined by the state public body, developing, constructing, or acquiring the property, for purposes of Section 1 of Article XXXIV of the State Constitution, shall not exceed the maximum income of lower income households, as defined in Section 50079 5

SEC. 4. Section 37001 5 is added to the Health and Safety Code, to read·

37001 5 The words "develop, construct, or acquire," as used in Section 1 of Article XXXIV of the State Constitution, shall not be interpreted to apply to activities of a state public body when such body does any of the following.

(a) Provides financing, secured by a deed of trust or other security instrument to a private owner of existing housing, or acquires a development, for which financing previously has been provided, as a temporary measure to protect its security and with an intention to change the ownership so that it will not continue to be the owner of a low-rent housing project.

(b) Acquires or makes improvements to land which is anticipated to be sold, ground leased, or otherwise transferred to a private owner prior to its development as a low-rent housing project, provided (1) the land and improvements thereon are not subject to an exemption from property taxation by reason of public ownership for more than five years following acquisition or improvement by the state public body, or (2) such an exemption from property taxation persists beyond the five-year period and no alternative use is designated for the land or improvements, but any property tax revenues lost by affected taxing agencies on account of the exemption of land or improvements from property taxes by reason of public ownership of the property, or any interest in the property after the five-year period, are fully reimbursed by payments in lieu of taxes following the expiration of the five-year period

(c) Leases existing dwelling units from the private owner of such units, provided the lease or a subtenancy thereunder does not result in a decrease of property tax revenues with respect to the dwelling units leased

(d) Provides assistance to the private owner or occupant of existing housing which enables an occupant to live in decent, safe, and sanitary housing at a rent he or she can afford to pay

(e) Provides assistance to a low-rent housing project and monitors construction or rehabilitation of such project and compliance with conditions of such assistance to the extent of

(1) Carrying out routine governmental functions,

(2) Performing conventional activities of a lender, or

(3) Imposing constitutionally mandated or statutorily authorized conditions accepted by a grantee of assistance

(f) Provides assistance to a development prior to its becoming a low-rent housing project without intending or expecting that the development will become a low-rent housing project, as defined

CHAPTER 693

An act to add and repeal Section 14136 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1. Section 14136 is added to the Welfare and Institutions Code, to read:

14136. No city or county shall establish equipment and personnel standards for the furnishing of nonemergency medical transportation services for eligible Medi-Cal beneficiaries which are in conflict with equipment and personnel standards for reimbursement established by the department pursuant to this chapter Nothing in this section shall be construed to otherwise limit the authority of a city or county to license or regulate nonemergency medical transportation services so long as such regulation is not in conflict with standards established by the department.

Nothing in this section shall be construed to prevent a city or county from allowing both emergency and nonemergency medical transportation services to operate within its jurisdiction under a sole franchise when such a franchise has been determined necessary to assure the economic viability of such services.

This section shall not become operative unless or until the department has established equipment and personnel standards which nonemergency medical transportation services must satisfy to qualify for reimbursement.

The provisions of this section shall remain in effect only until January 1, 1981, and on that date are repealed.

CHAPTER 694

An act to amend Section 74693 of, and to repeal and add Article 7 (commencing with Section 73560) of Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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

SECTION 1. Article 7 (commencing with Section 73560) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC 2 Article 7 (commencing with Section 73560) is added to Chapter 10 of Title 8 of the Government Code, to read.

Article 7 Monterey County

73560. There is in the County of Monterey, on and after the effective date of this section, a single municipal court district which embraces the former Salinas Judicial District, Monterey Peninsula Judicial District and North Monterey County Judicial District. This article applies to the municipal court established within the judicial district which shall be known as the Monterey County Municipal Court.

73561. Facilities for the court shall be maintained in the Cities of Salinas and Monterey and at court facilities provided elsewhere in accordance with law. The court shall determine the nature and frequency of sessions held at court locations.

73562 There shall be seven judges of the Monterey County Municipal Court District

73563. There shall be one commissioner. Notwithstanding any other provision of law the first commissioner shall be any person who has been a justice court judge for 10 years within the 12 years immediately preceding the consolidation of the Pacific Grove Justice Court District into the Monterey-Carmel Municipal Court District.

73564. Notwithstanding Section 72190, the commissioner shall exercise, within the jurisdiction of the court, all the powers and perform all the duties authorized by law.

The commissioner shall receive a salary of 50 percent of the salary received by a judge of the municipal court. The salary may be increased by the board of supervisors up to 60 percent of a municipal court judge's salary. The commissioner shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court.

73565. The municipal court judges may, by a majority vote, appoint a municipal court administrator who shall be the clerk of the municipal court. The municipal court administrator shall serve at the pleasure of a majority of the judges. He shall receive a salary of two thousand two hundred ninety-two dollars ($2,292) monthly provided, however, that the salary may be adjusted pursuant to Section 73568. He shall be the appointing authority for those positions listed in Section 73566

The municipal court judges shall prescribe and regulate by majority vote the duties and authority of the municipal court administrator among which shall be

(a) To direct and coordinate the nonjudicial activities of the district

(b) To coordinate the personnel practices in compliance with rules of the district and those of the County of Monterey

(c) To prepare and administer the budget of the district

(d) To coordinate with county agencies, the acquisition, utilization, maintenance, and disposition of facilities, equipment, and supplies necessary for the operation of the district

(e) To initiate studies and prepare appropriate recommendations

and reports to the presiding judge and judges relating to the business of the district, including, but not limited to, such matters as standardization of forms, procedures, and of classification and compensation of court attachés.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the district and to prepare periodic reports and recommendations based on such data.

(g) To provide for and conduct a program of in-service training for the personnel of the municipal court.

(h) To prepare procedure guides for the personnel of the municipal court.

(i) To make arrangements for and attend all meetings of the judges, to assist in the preparation of the agenda, and to prepare minutes of the meetings of the judges.

(j) To serve as liaison for the district with other persons, committee boards, groups, and associations as directed by the presiding judge.

(k) To assist Monterey County justice courts upon request of the justice court judge and approval of the Monterey County Board of Supervisors.

73566. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes the compensation for each job classification, are as follows; provided, however, that the board of supervisors may adjust the monthly salary pursuant to Section 73568, and may adjust the number and classification of positions pursuant to Section 73569:

Number	*Job classification*	*Monthly salary*
2	Assistant clerks of the municipal court	$1708
1	Principal municipal court clerk	1075–1332
4	Senior municipal court clerk	1023–1267
16	Municipal court clerk	898–1113
1	Senior stenographer clerk	813–1007
2	Stenographer-clerk II	732– 907
2	Senior account clerk	789– 977
2	Senior typist-clerk	730– 930
1	Account clerk	714– 884
15	Legal process clerk	714– 884
11	Typist-clerk II	679– 841

73567. Whenever reference to a salary other than that of commissioner is made in any section of this article, the schedule of salaries found in the salary resolution of the County of Monterey in

effect on February 27, 1979, shall apply, provided, however, that adjustments to such salaries may be made pursuant to Section 73568

73568 Certain classes of positions prescribed in this article are deemed to be equivalent in job and salary level of the Monterey County In order to maintain parity of compensation and employee benefits between attachés of the municipal court and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee benefits for related classes of court positions the provisions of this section shall govern salary adjustments and employee benefits for attachés of the Municipal Court in Monterey County

On the effective date of any amendment to such resolution adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto shall be adjusted an equivalent amount

Any adjustments made pursuant to this section shall be effective on the operative date of the county salary resolution and shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature

Table of Positions

Court classification	*County classification*
Clerk and municipal court administrator	Clerk and municipal court administrator
Assistant clerk of the municipal court	Assistant clerk of the municipal court
Principal municipal court clerk	Principal municipal court clerk
Senior municipal court clerk	Supervising clerk II
Municipal court clerk	Superior court clerk
Senior stenographer-clerk	Senior stenographer-clerk
Stenographer-clerk II	Stenographer-clerk II
Senior account clerk	Senior account clerk
Senior typist-clerk	Senior typist-clerk
Account clerk	Account clerk
Legal process clerk	Legal process clerk
Typist-clerk II	Typist-clerk II

Attachés of the municipal court district shall be entitled to all employee benefits that are provided for or made applicable to the equivalent Monterey County employee classification, including, but not limited to, anniversary dates, changes thereto, and step advancements

73569 (a) With the approval of the board of supervisors, a majority of municipal court judges may adjust the number and

classification of positions for officers, attachés, and employees provided by this article. The order and approval adjusting any such position shall designate the position title and salary. Nothing in this article shall preclude a majority of the judges from exercising powers in accordance with Sections 68073 and 72150.

When any additional positions are established, the municipal court administrator may appoint and employ such additional officers, attachés, and employees as are necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its member.

(b) Any adjustment made pursuant to this section shall be effective when established by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

(c) Notwithstanding any other provision of law, officers, attachés, and employees of the Salinas Judicial District, Monterey Peninsula Judicial District, and North Monterey County Judicial District, on the effective date of this section, shall succeed to equivalent or higher positions in the Monterey County Municipal Court and shall receive prior service credit and maintain employee benefits earned as officers, attachés, and employees of the superseded courts.

73570. The sheriff and his deputies shall act ex officio as the marshal and deputy marshals of the court referred to in this article.

73571. A majority of the judges of the court may, by order, designate areas surrounding a court location from which jurors for trial held at that location shall be selected.

73572. In Monterey County, the board of supervisors shall fix the compensation of offical court reporters pro tempore which shall be at the rate of fifty-five dollars ($55) per diem. The compensation of official court reporters pro tempore may be adjusted by action of the Board of Supervisors of Monterey County.

SEC. 3. Section 74693 of the Government Code is amended to read:

74693. The clerk may appoint:

(a) One assistant clerk of the municipal court, who shall receive a salary at the rate specified in range 54 of the salary schedule.

(b) Two deputy court clerks, grade IV, who shall receive a salary at the rate specified in range 45 of the salary schedule.

(c) Thirteen deputy court clerks, grade III, who shall receive a salary at the rate specified in range 40 of the salary schedule

(d) Nineteen deputy court clerks, each of whom shall be either grade I or grade II. Grade II deputy clerks shall receive a salary at the rate specified in range 32 of the salary schedule. Grade I deputy clerks shall receive a salary at the rate specified in range 27 of the salary schedule

(e) One deputy court clerk, grade I, who shall receive a salary at the rate specified in range 27 of the salary schedule.

(f) One typist-clerk, either grade I or grade II A grade I

typist-clerk shall receive a salary at the rate specified in range 24 of the salary schedule. A grade II typist-clerk shall receive a salary at the rate specified in range 27 of the salary schedule.

(g) Two account clerks, grade III, who shall receive a salary at the rate specified in range 33 of the salary schedule.

(h) Two court interpreters, who shall receive a salary at the rate specified in range 32 of the salary schedule.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 695

An act to amend Section 2 of Chapter 1261 of the Statutes of 1978, relating to emergency medical care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

I am reducing the appropriation contained in Senate Bill No 1207 from $250,000 to $232,500

The reduced appropriation is sufficient to continue the program of the Northern California Emergency Medical Care Council for the rest of the year

The need for ongoing state support for this single council should be carefully reviewed by the Legislature next year

With this reduction, I approve Senate Bill No 1207

EDMUND G BROWN JR , Governor

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

SECTION 1 Section 2 of Chapter 1261 of the Statutes of 1978 is amended to read·

Sec. 2. The sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the General Fund to the State Department of Health, or its successor, the State Department of Health Services, for expenditure without regard to fiscal years to provide state funding to match local funding for the operation of the Northern California Emergency Care Council pursuant to Article 7.9 (commencing with Section 419) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

The required local match shall be equal in dollar amount to the state subvention actually provided pursuant to this section No more than two hundred fifty thousand dollars ($250,000) of the moneys

appropriated by this section shall be expended during any single fiscal year

It is the intent of the Legislature that in future fiscal years, the funding for the operation of the Northern California Emergency Care Council shall be provided through the normal budgetary process.

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·

Emergency medical care delivery systems are urgently needed to provide adequate health care for California residents and visitors to this state In order to provide authority to the State Department of Health, or its successor, the State Department of Health Services, to contract with regional emergency medical care councils to provide funding assistance to such councils for planning, organizing, implementing, and maintaining such delivery systems and to provide for the continuation of a successful emergency medical care delivery system established pursuant to Chapter 957 of the Statutes of 1973 in rural areas of the state with extensive tourism at the earliest possible time, it is necessary that this act go into immediate effect

---

CHAPTER 696

An act to amend Section 4850 of, and to add Section 4850 1 to, the Vehicle Code, relating to license plates

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 4850 of the Vehicle Code is amended to read·

4850 (a) The department upon registering a vehicle shall issue to the owner two suitable license plates or devices for a motor vehicle, other than a motorcycle, and one suitable license plate or device for all other vehicles required to be registered under this code The plates or devices shall identify the vehicles for which they are issued for the period of their validity

The department shall implement a voluntary program phasing in reflectorized safety license plates as soon as practicable License plates issued under this program shall be either partially reflectorized or entirely reflectorized

(b) Notwithstanding any other provision of law, no contract shall be let to any nongovernmental entity for the purchase or securing of reflectorized material for the plates, unless the department has made every reasonable effort to secure qualified bids from as many

independent, responsible bidders as possible. No contract shall be let to any nongovernmental entity for the manufacturing of reflectorized safety license plates.

(c) This section shall be known as the Schrade-Belotti Act

SEC. 2. Section 4850.1 is added to the Vehicle Code, to read·

4850.1 (a) Once the department has received a qualified bid and awarded a contract, the department shall inform every applicant for original registration that reflectorized safety plates are available for an additional fee, as determined by the department to be sufficient to cover the department's administrative cost and the cost of reflectorization.

(b) Upon request of the applicant and payment of the additional fee, the department shall issue reflectorized safety plates.

CHAPTER 697

An act to amend Section 21080 of, and to repeal Sections 21085, 21085 5, and 21085.6 of, the Public Resources Code, relating to environmental quality

[Approved by Governor September 15, 1979 Filed with Secretary of State September 16, 1979]

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 January 1, 1982, 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

(10) All classes of projects designated pursuant to Section 21084.

(11) 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

(12) A project for the development of a regional transportation improvement program or the state transportation improvement

program.

(13) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(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 21085 of the Public Resources Code is repealed.

SEC 3. Section 21085.5 of the Public Resources Code is repealed.

SEC 4. Section 21085.6 of the Public Resources Code is repealed.

CHAPTER 698

An act to amend Sections 74604 and 74607 of the Government Code, relating to courts.

[Became law without Governor's signature September 17, 1979 Filed with Secretary of State September 17, 1979]

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

SECTION 1. Section 74604 of the Government Code is amended to read:

74604. There shall be one clerk of the court known as the clerk-administrator who shall be appointed by the presiding judge and who shall hold office at his pleasure. He shall receive an annual salary of twenty-nine thousand forty-three dollars ($29,043). In addition to any other duties imposed upon him by law, at the direction of the presiding judge, the clerk-administrator shall have the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To coordinate the personnel practices in compliance with rules of the court

(c) To prepare and administer the budget of the court.

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the court, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of officers and employees.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial

business of the court and to prepare periodic reports and recommendations based on such data

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge

SEC 2 Section 74607 of the Government Code is amended to read

74607 The presiding judge of the court may appoint·

(a) Four municipal court clerks IV, each of whom shall receive a monthly salary at a rate specified in range 61 2

(b) One accounting technician, who shall receive a monthly salary at a rate specified in range 60.7

(c) Two municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range 60 2.

(d) One account clerk, who shall receive a monthly salary at a rate specified in range 58 4

(e) Two municipal court clerks II, each of whom shall receive a monthly salary at a rate specified in range 59 3

(f) Twenty-three municipal court clerks I, each of whom shall receive a monthly salary at a rate specified in range 57 9

(g) One assistant clerk-administrator, who shall receive a monthly salary at a rate specified in range 65 0

(h) One data entry operator I, who shall receive a monthly salary specified in range 58 7

SEC 3 No appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act because this act is in accordance with the request of a local governmental entity or entities which desire legislative authority to carry out the program specified in this act

---

CHAPTER 699

An act to add Section 39214 5 to the Education Code, relating to school buildings

[Became law without Governor's signature September 17, 1979 Filed with Secretary of State September 17, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 39214 5 is added to the Education Code, to read

39214 5 "School building" as used in this article excludes any building operated by an official or board of a public entity for purposes other than educational, notwithstanding any educational

use thereof incidental to such other primary purpose.

For purposes of this section, a public entity includes, but is not limited to, a city, city and county, county, or special district, but does not include a school district, community college district, or county superintendent of schools.

CHAPTER 700

An act to amend Section 70048 of the Government Code, relating to court reporters.

[Became law without Governor's signature September 17, 1979 Filed with Secretary of State September 17, 1979]

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

SECTION 1. Section 70048 of the Government Code is amended to read.

70048 (a) In a county with a population of 1,300,000 and under 1,400,000, as determined by the 1970 federal census, regular official reporters shall be paid at a monthly salary rate established according to the following salary schedule.

Range	*Month*	*Annual*
Step A	$1,657	$19,884
Step B	1,740	20,878
Step C	1,827	21,924
Step D	1,918	23,020
Step E	2,016	24,192

Except as provided herein, the initial hiring rate for each position shall be Step A, provided further, however, the judges of the superior court may appoint any such court reporter at a higher initial step if in the opinion of the judges of the superior court an individual to be appointed has such experience and qualification as to entitle that individual to such higher initial step. A step advancement from Step A to Step B may be granted on the first day of the month following the completion of 12 full months of service in the position. A person may advance to Steps C, D, and E upon completion of successive 12-month periods of service. All merit increases as provided herein shall be made at the determination of the judges of the superior court A court reporter employed prior to November 15, 1977, and currently employed shall receive a monthly and annual salary at Step E

(b) Official phonographic reporters pro tempore shall be compensated at the rate of seventy-nine dollars ($79) a day, or any fractional part thereof

(c) Each reporter shall annually report, not later than April 15 of

each year, to the Judicial Council and the board of supervisors:

(1) The quantity and types of transcripts prepared by them during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts;

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

(d) Each reporter shall cooperate with county personnel in any random job reviews for the purpose of confirming hours spent in attendance upon the courts for the purpose of reporting proceedings

(e) During the hours which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

(f) Rates of compensation of all regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court

Such changes in compensation made pursuant to this section shall be on an interim basis and shall expire on January 1 of the second year after the calendar year in which the change occurs, unless ratified by a statute enacted on or before that date.

SEC 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 701

An act to amend Sections 4005 and 4007 of, and to add a heading to Article 1 (commencing with Section 4000) of, and to add Article 2 (commencing with Section 4030) to Chapter 2 of Part 3 of Division 4 of, and to add Section 4180 1 to, the Fish and Game Code, relating to trapping, and making an appropriation therefor.

[Became law without Governor's signature September 17, 1979 Filed with Secretary of State September 17, 1979]

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

SECTION 1 A heading for Article 1 (commencing with Section 4000) is added to Chapter 2 of Part 3 of Division 4 of the Fish and Game Code, immediately preceding Section 4000, to read:

Article 1. Trapping Provisions

SEC. 2. Section 4005 of the Fish and Game Code is amended to read.

4005. Every person, other than a fur dealer, who takes fur-bearing mammals or nongame mammals, designated by the commission, by means of a trap, or sells raw furs of such mammals shall procure a trapping license. Persons taking mammals in accordance with Section 4152 or 4180 are not required to procure a trapping license but no raw furs so taken may be sold. A raw fur as referred to in this chapter means any fur, pelt, or skin which has not been tanned or cured; salt or sun cured pelts are considered raw fur.

SEC. 3. Section 4007 of the Fish and Game Code is amended to read:

4007. A trapping license authorizes the person to whom it is issued to take, during the open season, fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of such term, for the remainder thereof and to sell the raw fur of any such animal.

SEC 4. Article 2 (commencing with Section 4030) is added to Chapter 2 of Part 3 of Division 4 of the Fish and Game Code, to read:

Article 2. Fur Dealer License

4030. Every person engaging in, carrying on, or conducting wholly or in part the business of buying, selling, trading or dealing in raw furs of fur-bearing mammals or nongame mammals is a fur dealer and shall procure a fur dealer license. No fur dealer license shall be required of a licensed trapper selling raw furs which he has lawfully taken, or a domesticated game breeder selling raw furs of animals which he has raised.

4031 A revocable fur dealer license shall be issued to any person upon payment of fifty dollars ($50).

4032. Any person who is employed by a licensed fur dealer to engage in the business of buying, selling, trading, or dealing in raw furs only on behalf of the fur dealer and not on his own behalf is a fur agent and shall procure a fur agent license.

4033. A revocable fur agent license shall be issued to any person who is employed by a licensed fur dealer upon payment of twenty-five dollars ($25).

4034 A fur dealer license authorizes the person to whom it is issued to buy, sell, barter, exchange, or possess raw furs or parts thereof of fur-bearing mammals and nongame mammals for a term

of one year from July 1st, or if issued after the beginning of such term, for the remainder thereof.

4035 A fur dealer or fur agent license shall be shown upon request to any person authorized to enforce the provisions of this code

4036. It shall be unlawful for any fur dealer to purchase the raw fur of any fur-bearing mammal or nongame mammal from any person who does not hold a valid trapping license, fur dealer license, or fur agent license.

4037. Every fur dealer licensed pursuant to this article shall maintain a true and legible record of any transfer of raw furs to show:

(a) The license number, name, and address of the seller.

(b) The signature, name, and license number, if applicable, of the buyer

(c) The number and species of raw furs transferred, by county of take

(d) The price paid or terms of exchange.

(e) The date of transfer.

(f) Such other information as the department may require.

4038. The record of sale, exchange, barter, or gift shall be available for inspection at any time by the department.

4040 Each licensed fur dealer shall submit an annual report to the department on the sale, exchange, barter, or gift of raw furs, on forms furnished by the department. No license shall be renewed until such a report is received

4041 The receipts, records, and reports required by this article and the information contained therein, shall be confidential, and the records shall not be public records. Any information which is published shall be published in such a manner as to preserve confidentiality of the persons involved.

4042 The commission may regulate the business of buying, selling, trading, or dealing in raw furs, or parts thereof, of all fur-bearing mammals or nongame mammals under a fur dealer license.

4043. Any license issued under the provisions of this chapter may be revoked by the commission in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, upon the licensee's conviction of a violation of any provision of this article.

SEC 5. Section 4180.1 is added to the Fish and Game Code, to read·

4180 1. It is unlawful to use snares, hooks, or barbed wire to remove from the den, or fire to kill in the den, any immature depredator mammal

Nothing in this section shall prohibit the use of fire-ignited gas cartridges or other products registered or permitted under the Federal Insecticide, Rodenticide, and Fungicide Act (7 U S.C. 135 et seq.)

SEC. 6 Notwithstanding Section 2231 or 2234 of the Revenue and

Taxation Code, there shall be no appropriation made by this act pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253 2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act

---

CHAPTER 702

An act to amend Section 2496 of the Business and Professions Code, relating to the practice of medicine, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1 Section 2496 of the Business and Professions Code is amended to read

2496 The amount of fees and refunds is that fixed by the following schedule for any certificate issued by the Board of Osteopathic Examiners All other fees and refunds for any certificate issued by the Board of Osteopathic Examiners and which are not prescribed in this schedule, are prescribed in Section 2458.

(a) The fee for each applicant for a certificate, unless otherwise provided, shall be set by the board on or before November 1st of each year for the ensuing calendar year at such sum as the board determines necessary to defray the expenses of administering the provisions of this chapter, under the Osteopathic Act, relating to the issuance of certificates to such applicants, which sum, however, shall, until December 31, 1982, not exceed two hundred dollars ($200) nor be less than twenty-five dollars ($25) In addition, an annual tax and registration fee shall be set by the board on or before November 1st of each year which shall not exceed two hundred dollars ($200) nor be less than ten dollars ($10) until December 31, 1982. If the applicant's credentials are insufficient, or if he does not desire to take the examination or if the applicant fails to receive a certificate, the sum of ten dollars ($10) shall be retained and the remainder of the fee is returnable on application

(b) Each applicant for a reciprocity certificate shall pay an

application fee in the sum of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and shall pay a fee which shall be fixed annually by the board, until December 31, 1982, at a sum not in excess of two hundred dollars ($200) nor less than twenty-five dollars ($25) for the issuance of a certificate.

(c) The fee for failure to pay the annual tax and registration fee is fifty dollars ($50).

(d) The board shall set an annual tax and registration fee in an amount less than that levied pursuant to subdivision (a) which shall be paid by any applicant who indicates to the board in writing that he or she does not intend to practice under the Osteopathic Act during the renewal period covered by such annual tax and registration fee. The annual tax and registration fee levied pursuant to this subdivision shall be in effect until December 31, 1982, and after December 31, 1982, shall not be levied.

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

In order that the provisions of this act shall be fully implemented it is necessary that this act take effect immediately.

CHAPTER 703

An act to amend Sections 6505 and 26909 of the Government Code, relating to audits.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979.]

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

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

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

In addition, and provided a separate agency or entity is created, the public officer performing the functions of auditor or controller as determined pursuant to Section 6505.5, shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every agency or entity, except that such officer need not make or contract for such audit in any case where an annual audit of the accounts and records of such agency or entity by a certified public accountant or public accountant is otherwise made by any agency of the state or the United States only as to such accounts and records which are directly subject to such a federal or state audit. In each case the minimum

requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code and shall conform to generally accepted auditing standards.

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

Where a nonprofit corporation is designated by the agreement to administer or execute the agreement and no public officer is required to perform the functions of auditor or controller as determined pursuant to Section 6505.5, an audit of the accounts and records of the agreement shall be made at least once each year by a certified public accountant or public accountant, and a report thereof shall be filed as a public record with each of the contracting parties to the agreement. Such reports shall be filed within 12 months after the end of the fiscal year under examination.

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

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

Notwithstanding the foregoing provisions of this section to the contrary, agencies or entities shall be exempt from the requirement of an annual audit if the financial statements are audited by the State Controller to satisfy federal audit requirements.

SEC 2 Section 26909 of the Government Code is amended to read

26909 (a) The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special purpose district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided. In each case the minimum requirements of the audit shall be prescribed by the State Controller and shall conform to generally accepted auditing standards

(b) Where an audit of a district's accounts and records is made by a certified public accountant or public accountant, the minimum requirements of the audit shall be prescribed by the State Controller and shall conform to generally accepted auditing standards, and a report thereof shall be filed with the State Controller and with the county auditor of the county in which the district is located. Such

report shall be filed within 12 months of the end of the fiscal year under examination

(c) Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special purpose district pursuant to this section shall be borne by the district and shall be a charge against any unencumbered funds of the district available for the purpose

(d) For joint districts lying within two or more counties, the above provisions shall apply to the auditor of the county in which the treasury is located.

(e) The county controller, or ex officio county controller, shall effect the provisions of this section in those counties having such officer.

All special districts, whose annual budget does not exceed one thousand dollars ($1,000), may, by unanimous request of the governing board thereof, with unanimous approval of the board of supervisors, replace the annual special audit with an audit covering a five-year period

Notwithstanding the foregoing provisions of this section to the contrary, districts shall be exempt from the requirement of an annual audit if the financial statements are audited by the State Controller to satisfy federal audit requirements.

CHAPTER 704

An act to add Section 14672 15 to the Government Code, relating to state property.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979.]

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

SECTION 1 Section 14672.15 is added to the Government Code, to read·

14672.15 Notwithstanding Section 14670, the Director of General Services, with the consent of the Department of Corrections, upon such terms and conditions as the director deems in the best interests of the state and without any monetary consideration, may let to the City of Chino for a term not to exceed 25 years, for the purposes of developing and maintaining a public park, real property not to exceed 40 acres which belongs to the state and which is retained by the state primarily to provide a peripheral buffer area, or zone, between real property upon which is located the California Institution for Men and adjacent real property The lease authorized by this section shall be nonassignable and shall be subject to periodic review after the fifth anniversary of the lease Such review shall be

made by the Director of General Services who shall ascertain whether the original purposes of the lease are being carried out

SEC 2 The lease authorized by Section 1 of this act shall be subject to the following conditions.

(a) That the city has submitted a general development plan for the property which conforms to the city's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7 of the Government Code, and which general development plan has been approved by the Department of Parks and Recreation with the consent of the Department of Corrections

(b) That the land be developed according to such plan within a time period determined by the Director of General Services but not to exceed five years.

SEC 3 The Legislature hereby finds and declares that there is a statewide deficiency of property available for recreational and open-space purposes and that the lease of property for park purposes contained in this act will provide broad public benefits.

CHAPTER 705

An act to amend Sections 1859 and 1860 of the Civil Code, and to amend Section 537 of the Penal Code, relating to liability.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1. Section 1859 of the Civil Code is amended to read:

1859 The liability of an innkeeper, hotelkeeper, operator of a licensed hospital, rest home or sanitarium, furnished apartment house keeper, furnished bungalow court keeper, boardinghouse or lodginghouse keeper, for losses of or injuries to personal property, is that of a depositary for hire; provided, however, that in no case shall such liability exceed the sum of one thousand dollars ($1,000) in the aggregate In no case shall liability exceed, for each item of described property, the respective sums of five hundred dollars ($500) for each trunk and its contents, two hundred fifty dollars ($250) for each valise or traveling bag and its contents, two hundred fifty dollars ($250) for each box, bundle or package and its contents, and two hundred fifty dollars ($250) for all other personal property of any kind, unless he shall have consented in writing with the owner thereof to assume a greater liability.

SEC. 2 Section 1860 of the Civil Code is amended to read

1860 If an innkeeper, hotelkeeper, operator of a licensed hospital, rest home or sanitarium, boardinghouse or lodginghouse keeper, keeps a fireproof safe and gives notice to a guest, patient, boarder or lodger, either personally or by putting up a printed notice

in a prominent place in the office or the room occupied by the guest, patient, boarder, or lodger, that he keeps such a safe and will not be liable for money, jewelry, documents, furs, fur coats and fur garments, or other articles of unusual value and small compass, unless placed therein, he is not liable, except so far as his own acts shall contribute thereto, for any loss of or injury to such articles, if not deposited with him to be placed therein, nor in any case for more than the sum of five hundred dollars ($500) for any or all such property of any individual guest, patient, boarder, or lodger, unless he shall have given a receipt in writing therefor to such guest, patient, boarder or lodger.

SEC. 3. Section 537 of the Penal Code is amended to read:

537. (a) Any person who obtains any food or accommodations at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, ski area, or public or private campground, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, or public or private campground by the use of any false pretense, or who, after obtaining credit, food, or accommodations, at an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, or public or private campground, absconds, or surreptitiously, or by force, menace, or threats, removes any part of his baggage therefrom without paying for his food or accommodations is guilty of a misdemeanor.

(b) Any person who uses or attempts to use ski area facilities for which payment is required without paying as required, or who resells a ski lift ticket to another when the resale is not authorized by the proprietor, is guilty of an infraction.

(c) Evidence that such person left the premises of such an hotel, inn, restaurant, boardinghouse, lodginghouse, apartment house, bungalow court, motel, autocamp, ski area, or public or private campground, without paying or offering to pay for such food, use of facilities, or accommodation, or that such person, without authorization from the proprietor, resold his ski lift ticket to another person after making use of such facilities, shall be prima facie evidence that such person obtained such food, use of facilities or accommodations with intent to defraud the proprietor or manager.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

CHAPTER 706

An act to add and repeal Article 4.5 (commencing with Section 14145) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to pilot projects for personal care services.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 18, 1979.]

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

SECTION 1. Article 4.5 (commencing with Section 14145) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 4 5. Pilot Projects for Personal Care Services

14145. It is the intent of the Legislature to provide personal care services in a manner which is cost effective and minimizes fragmentation. The Legislature recognizes that personal care services can be provided under both the In-Home Supportive Services Program and the Medi-Cal program. It is the intent of the Legislature to examine the feasibility of providing personal care services under the Medi-Cal program in lieu of in-home supportive services and to test the effect on cost and fragmentation of services.

14145.1. Notwithstanding any other provision of the law, the department shall establish pilot projects in four or more counties to provide personal care services as a Medi-Cal benefit. Such pilot projects shall be operated in accordance with federal law The department is authorized to seek federal waivers wherever necessary to conduct the pilot projects. The pilot projects shall test the cost effectiveness of providing personal care services as a Medi-Cal benefit. The pilot projects shall determine the effect, if any, on the fragmentation or coordination of services being provided under the Medi-Cal program and the In-Home Supportive Services Program.

The department shall inform all counties about the pilot projects and the criteria for selecting the participating counties from the counties' indicating an interest in participating in the projects.

14145.2. The department shall be responsible for the development and supervision of the pilot projects. The State Department of Social Services shall participate in and cooperate with the department in the development and supervision of the pilot projects to assure that the in-home supportive services provided pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of this part, and personal care services are effectively integrated and coordinated by the county welfare department

14145.3. As used in this article, "personal care services" include, but are not limited to, assistance with routine bodily functions such

as bowel and bladder care, skin care, oral hygiene, dressing, grooming, bathing, repositioning in bed, care of prosthetic devices, ambulating, other activities of daily living as determined by the department, household maintenance essential for the patient's health which is incidental to the provision of personal care as determined by the department, as well as specialized personal care services such as services for fecal impaction, catheter care, colostomy care, tube feeding, administration of medication, and nail care for diabetes. Personal care services may include other services deemed appropriate by the department, if such services will reduce the fragmentation between the provision of in-home supportive and personal care services.

14145.4 Personal care services as part of a treatment plan shall be authorized by a social health team based upon a physician's prescription for such services. The composition of the social health team shall be determined by the department

The department shall test at least two methods of authorization using a social health team One method of authorization to be tested shall make maximum utilization of an existing county system for authorizing in-home supportive services. Another method of authorization to be tested shall make maximum utilization of the Medi-Cal prior authorization system

14145.5 The department shall test at least two methods of providing personal care services under Medi-Cal. These two methods are as follows

(a) Utilization of individual vendors qualified by the department or its designee and reimbursed at rates determined by the department.

(b) Through a negotiated contract with a public or private agency based upon rates and standards established by the department

14145 6. No individual recipient shall receive personal care services, the total monthly cost of which when added to the cost of in-home supportive services exceeds the maximum payment specified in Section 12303.5, unless the recipient is severely impaired as defined in Section 12304, or meets the conditions of Section 14145 7 No severely impaired individual shall receive personal care services, the total monthly cost of which when added to the cost of in-home supportive services exceeds the amount specified in Section 12304

14145 7 The maximum monthly cost of services provided to the recipients in Section 14145.6 may be increased, if in the judgment of the Medi-Cal consultant the recipient qualifies for care in an institutional setting the cost of which exceeds the monthly maximum amount and the recipient cannot remain in an independent living situation unless the monthly maximum amount is increased In such cases, the director shall authorize the increase of the monthly maximum amount provided to the recipient not to exceed the cost of care in an appropriate institution less the amount of income being received by the recipient, including cash assistance.

14145.8. (a) The department shall submit a report to the Legislature as soon as possible but no later than May 1, 1980, which describes the pilot project design, designates the counties to be included in each project, describes the evaluation design including procedures to be utilized in collecting the information specified by subdivision (c), and specifies the amount of the funds to be transferred from the in-home supportive services budget item to the Medi-Cal budget item. If the project design indicates a need for additional service funds, this amount shall also be identified. The department may develop an evaluation design which requires additional funds for evaluation. If such additional funds are requested, the project design should specify what information will be secured by this additional expenditure, the value of such information and the other methods and costs of securing such information.

(b) The Joint Budget Committee of the Legislature shall review and comment on the project design. The pilot projects shall be implemented as soon as feasible but no later than October 1, 1980, if no additional service funds are necessary and if the necessary federal waivers are obtained. The Department of Finance shall transfer the funds from the in-home services budget item to the Medi-Cal budget item. If additional service funds are required, the pilot projects shall be implemented as soon as feasible but no later than October 1, 1980, if the additional service funds and the necessary federal waivers are obtained

(c) Subsequent to the establishment of the pilot projects, a preliminary report shall be submitted to the Legislature by October 1, 1981 A final report shall be submitted to the Legislature by October 1, 1982. The preliminary report shall include:

(1) The number of persons receiving personal care services, aggregated by their eligibility for Aid to Families with Dependent Children, state supplemental payment, or their eligibility for Medi-Cal pursuant to Sections 14005.4 and 14005.7

(2) A description of the social and health conditions which necessitated the services.

(3) A description of the services provided to each group described in paragraph (1).

(4) The cost of services provided to each group described in paragraph (1)

(5) A comparison of the services, the cost of providing services, and the impact of the services on the recipients receiving personal care services as a Medi-Cal benefit and recipients receiving personal care services as an in-home supportive service

(6) The number of persons receiving services who have been determined by a Medi-Cal consultant to qualify for placement in an intermediate care facility, skilled nursing facility, or acute care hospital, as well as the cost of providing services to this group as contrasted with the cost of care in the appropriate institution

(7) The number of persons receiving services who have been determined by a Medi-Cal consultant to not qualify for placement in

an intermediate care facility, skilled nursing facility, or acute care hospital, as well as the cost of providing services to this group.

(8) The fiscal impact on the General Fund and the counties of providing personal care services as a Medi-Cal benefit.

(9) The effect of providing personal care services as a Medi-Cal benefit on the fragmentation or coordination of such services with in-home supportive services.

(10) The social health team's assessment of the availability of relatives to perform personal care services if such services were not available under this article and Article 7 (commencing with Section 12300) of Chapter 3 of this part.

In addition to the above, the final report shall include recommendations to the Governor and the Legislature with respect to the following:

(i) The provision of personal care services on a statewide basis as a Medi-Cal benefit.

(ii) The administration of personal care services, including the recommended method of authorizing and providing personal care services.

(iii) The administration of in-home supportive services, including the definition of such services and recommended method of authorizing such services.

14145.9. This article shall remain in effect only until June 30, 1983, and on such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1983, deletes or extends such date In this regard, it is the intent of the Legislature to evaluate the final report submitted pursuant to Section 14145.8 to determine whether the pilot projects conducted pursuant to this article have sufficient positive impact to warrant continuation.

CHAPTER 707

An act relating to aviation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 18, 1979.]

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

SECTION 1. With respect to the sum of fourteen thousand three hundred ninety-three dollars and two cents ($14,393.02) demanded as repayment from the City of Dos Palos to the state as reimbursement to the Aeronautics Fund by reason of the closure and transfer to the United States of Eagle Field Airport, the city shall pay, on or before December 1, 1980, the sum of five thousand three hundred thirty-two dollars and fifty cents ($5,332.50) and on or before January 1, 1985, or whenever an application for an airport

development grant to the City of Dos Palos is approved by either the state or federal government, whichever occurs first, to the state the sum of nine thousand sixty dollars and fifty-two cents ($9,060.52) such sum in settlement of all obligations to the state arising out of the closure and transfer to the United States of Eagle Field.

SEC. 2. The Legislature finds and declares that Section 1 of this act is necessary since special facts and circumstances applicable to the City of Dos Palos and not generally applicable make the accomplishment of this purpose impossible by any general law. Allocations made by the Department of Transportation to the city from the Aeronautics Account in the State Transportation Fund for airport purposes were expended in good faith prior to the closure of the city airport and transfer of the airport property to the federal government. The Legislature further finds and declares that this is the only such expenditure of funds involved, that the purpose of this act is impossible to accomplish by any general law, and that special legislation applicable only to the City of Dos Palos is therefore necessary

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 City of Dos Palos is experiencing serious financial difficulties because of uncertainty as to the application of provisions of law relating to grants of state funds for airport purposes. In order to resolve this uncertainty as soon as possible, it is necessary that this act go into effect immediately.

CHAPTER 708

An act to amend Section 510 of, and to add Sections 510.1, 510.3, 510.5, and 510.7 to, the Health and Safety Code, relating to health officers.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1. Section 510 of the Health and Safety Code is amended to read:

510. Whenever the governing body of any city, county, or city and county determines that the expenses of its health officer in the enforcement of any statute, order, quarantine, rule or regulation prescribed by a state officer or department relating to public health, which either requires or authorizes the health officer to perform specified acts, are not met by any fees prescribed by the state, such governing body may adopt an ordinance or a resolution prescribing

such fees as will pay the reasonable expenses of such officer incurred in such enforcement, and may authorize a direct assessment for such fees against the real property in cases where the real property is owned by the operator of a business and such property is the subject of the enforcement for which the fee is charged. The schedule of fees prescribed by ordinance or resolution of the governing body shall be applicable in the area in which the health officer enforces any statute, order, quarantine, rule or regulation prescribed by a state health officer or department relating to public health

SEC 2 Section 510 1 is added to the Health and Safety Code, to read

510.1 On or before August of each year, the officer designated by the governing body to collect fees authorized by Section 510, shall prepare a list of parcels of real property which are subject to such fees On or before the tenth day of August of each year, such officer shall transmit such list to the county auditor and the auditor shall enter the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll

SEC 3 Section 510 3 is added to the Health and Safety Code, to read·

510 3 The tax collector shall include the amount of the assessment entered on the assessment roll pursuant to Section 510 1 on bills for taxes levied against the respective lots and parcels of land, and such assessment shall be listed separately on the tax bill. Thereafter, the amounts of such assessment shall be collected at the same time and in the same manner as county taxes are collected

If a county collects such assessments on behalf of a city, the county may deduct its reasonable costs incurred for its services in connection with such collection before remittal of the balance to the city treasury

SEC 4 Section 510 5 is added to the Health and Safety Code, to read

510 5 All laws applicable to the levy, collection, and enforcement of county taxes are applicable to such special assessments made pursuant to this article

SEC 5 Section 510 7 is added to the Health and Safety Code, to read

510 7 In lieu of the assessment procedure provided in this article, if the officer charged with the billing and collection of such fees is a county officer, such officer may, with the approval of the governing body, record without fee, in the office of the county recorder of the county in which such real property is located, a certificate specifying the amount, interest, penalty due, and the name and last known address of the person liable therefor If the officer charged with the billing and collection of such fees is a city officer, such officer, with the approval of the governing body may, in lieu of the assessment procedure provided in this article, record with reasonable fee charge, in the office of the county recorder of the county in which

such real property is located, a certificate specifying the amount, interest, penalty due, and last known address of the person liable therefor. From the time of recordation of the certificate, the amount required to be paid together with interest and penalty constitutes a lien upon all real property in the county owned or thereafter acquired by the liable person. The lien created by recording this certificate shall have the force, effect, and priority of a judgment lien and shall continue for 10 years from the time of the recording unless released or otherwise discharged prior to such time. Prior to recording the lien with the county recorder, the lienor shall notify the owner of the property by certified mail of the intent to record such certificate.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is provided in this act to cover 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code

---

CHAPTER 709

An act to add Sections 75061, 75077.5, and 75103.2 to, the Government Code, relating to the Judges' Retirement Law.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1. Section 75061 is added to the Government Code, to read·

75061. Any person who becomes a judge on or after January 1, 1980, shall not be eligible to be retired for disability unless the judge is credited with at least two years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

SEC. 2. Section 75077.5 is added to the Government Code, to read:

75077.5 For a judge who dies after retirement, the spouse of a judge at death may receive benefits payable to a surviving spouse under this chapter only if the spouse was married to the judge as of January 1, 1980, or continuously for a period beginning one year prior to the date of retirement and ending with the judge's death.

It is the intent of the Legislature that this section apply to all judges first appointed or elected to office on and after January 1, 1980, or to

any judge who marries on or after January 1, 1980.

SEC. 3. Section 75103.2 is added to the Government Code, to read:

75103.2. The Legislature reserves the right to reduce any benefits applicable to any person who becomes a judge on and after January 1, 1980.

SEC 4 If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 710

An act making an appropriation to the Emergency Fund to repay a loan to the State Department of Health Services to enable compliance with a court-approved settlement.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 18, 1979]

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

SECTION 1. The sum of one hundred twenty-three thousand two hundred eleven dollars ($123,211) is hereby appropriated from the General Fund to the Emergency Fund to repay the loan in full made to the State Department of Health Services from this fund. This loan was made to enable the Department of Health Services to comply with the court-approved settlement of the parties and the order pursuant thereto of the United States District Court for the Northern District in the case of Bracco, et al. v. Lackner (No. C-78-0471 SAW).

CHAPTER 711

An act to amend Sections 158, 315, 604, 908, 1101, 1104, 1108, 1201, 2113, and 13403 of, and to add Sections 911 and 1112 to, the Corporations Code, relating to corporations.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1 Section 158 of the Corporations Code is amended to read

158 (a) "Close corporation" means a corporation whose articles

contain, in addition to the provisions required by Section 202, a provision that all of the corporation's issued shares of all classes shall be held of record by not more than a specified number of persons, not exceeding 10, and a statement "This corporation is a close corporation."

(b) The special provisions referred to in subdivision (a) may be included in the articles by amendment, but if such amendment is adopted after the issuance of shares only by the affirmative vote of all of the issued and outstanding shares of all classes

(c) The special provisions referred to in subdivision (a) may be deleted from the articles by amendment, or the number of shareholders specified may be changed by amendment, but if such amendment is adopted after the issuance of shares only by the affirmative vote of at least two-thirds of each class of the outstanding shares; provided, however, that the articles may provide for a lesser vote, but not less than a majority of the outstanding shares, or may deny a vote to any class, or both.

(d) In determining the number of shareholders for the purposes of the provision in the articles authorized by this section, a husband and wife and the personal representative of either shall be counted as one regardless of how shares may be held by either or both of them, a trust or personal representative of a decedent holding shares shall be counted as one regardless of the number of trustees or beneficiaries and a partnership or corporation or business association holding shares shall be counted as one (except that any such trust or entity the primary purpose of which was the acquisition or voting of the shares shall be counted according to the number of beneficial interests therein)

(e) A corporation shall cease to be a close corporation upon the filing of an amendment to its articles pursuant to subdivision (c) or if it shall have more than the maximum number of holders of record of its shares specified in its articles as a result of an inter vivos transfer of shares which is not void under subdivision (d) of Section 418, the transfer of shares on distribution by will or pursuant to the laws of descent and distribution, the dissolution of a partnership or corporation or business association or the termination of a trust which holds shares, by court decree upon dissolution of a marriage or otherwise by operation of law. Promptly upon acquiring more than the specified number of holders of record of its shares, a close corporation shall execute and file an amendment to its articles deleting the special provisions referred to in subdivision (a) and deleting any other provisions not permissible for a corporation which is not a close corporation, which amendment shall be promptly approved and filed by the board and need not be approved by the outstanding shares

(f) Nothing contained in this section shall invalidate any agreement among the shareholders to vote for the deletion from the articles of the special provisions referred to in subdivision (a) upon the lapse of a specified period of time or upon the occurrence of a

certain event or condition or otherwise.

(g) The following sections contain specific references to close corporations: 186, 202, 204, 300, 418, 421, 706, 1111, 1201, 1800 and 1904.

SEC. 2. Section 315 of the Corporations Code is amended to read:

315. (a) Except as provided in subdivision (b), a corporation shall not make any loan of money or property to or guarantee the obligation of:

(1) Any director or officer of the corporation or of its parent or any subsidiary, or

(2) Any person upon the security of shares of the corporation or of its parent, unless the loan or guaranty is otherwise adequately secured, except by the vote of the holders of a majority of the shares of all classes, regardless of limitations or restrictions on voting rights, other than shares held by the benefited director, officer or shareholder.

(b) Any corporation may lend money to, or guarantee any obligation of or otherwise assist any officer or other employee of the corporation or of any subsidiary, including any officer or employee who is also a director, pursuant to an employee benefit plan (including, without limitation, any stock purchase or stock option plan) available to executives or other employees, whenever the board determines that such loan or guaranty may reasonably be expected to benefit the corporation. If such plan includes officers or directors, it shall be approved by the shareholders (Section 153) after disclosure of the right under such plan to include officers or directors thereunder. Such loan or guaranty or other assistance may be with or without interest and may be unsecured or secured in such manner as the board shall approve, including, without limitation, a pledge of shares of the corporation. A corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such director or officer, provided that in the absence of such advance such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent or any subsidiary.

(c) (1) The provisions of subdivisions (a) and (b) do not apply to any corporation subject to the Banking Law

(2) The provisions of subdivision (a) do not apply to industrial loan companies or credit unions or to loans permitted under any statute regulating any special class of corporations

(d) The provisions of subdivisions (a) and (b) do not apply to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value

SEC 3 Section 604 of the Corporations Code is amended to read.

604. (a) Any form of proxy or written consent distributed to 10 or more shareholders of a corporation with outstanding shares held of record by 100 or more persons shall afford an opportunity on the

proxy or form of written consent to specify a choice between approval and disapproval of each matter or group of related matters intended to be acted upon at the meeting for which the proxy is solicited or by such written consent, other than elections to office, and shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter the shares will be voted in accordance therewith.

(b) In any election of directors, any form of proxy in which the directors to be voted upon are named therein as candidates and which is marked by a shareholder "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted either for or against the election of a director

(c) Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging any proxy at a meeting and the superior court may compel compliance therewith at the suit of any shareholder.

(d) This section does not apply to any corporation with an outstanding class of securities registered under Section 12 of the Securities Exchange Act of 1934 or whose securities are exempted from such registration by Section 12 (g) (2) of that act

SEC 4 Section 908 of the Corporations Code is amended to read

908 Upon the filing of the certificate of amendment, the articles shall be amended in accordance with the certificate and any stock split, reverse stock split, reclassification, cancellation, exchange or other change in shares shall be effected, and a copy of the certificate, certified by the Secretary of State, is prima facie evidence of the performance of the conditions necessary to the adoption of the amendment

SEC 5 Section 911 is added to the Corporations Code, to read

911 (a) A corporation may, by amendment of its articles pursuant to this section, convert to a nonprofit public benefit corporation, nonprofit mutual benefit corporation or, nonprofit religious corporation

(b) The amendment of the articles shall revise the statement of purpose, delete the authorization for shares and any other provisions relating to authorized or issued shares, make such other changes as may be necessary or desired, and, if any shares have been issued, provide either for the cancellation of such shares or for the conversion of such shares to memberships of the nonprofit corporation

(c) If shares have been issued, the amendment shall be approved by all of the outstanding shares of all classes regardless of limitations or restrictions on the voting rights thereof

(d) If an amendment pursuant to this section is included in a merger agreement, the provisions of this section apply, except that any provision for cancellation or conversion of shares shall be in the merger agreement rather than in the amendment of the articles

SEC 6 Section 1101 of the Corporations Code is amended to

read

1101. The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons, including a parent party corporation (Section 1200), may be parties to the agreement of merger. The agreement shall state:

(a) The terms and conditions of the merger;

(b) The amendments, subject to Sections 900 and 907, to the articles of the surviving corporation to be effected by the merger, if any; if any amendment changes the name of the surviving corporation the new name may be the same as or similar to the name of a disappearing domestic or foreign corporation, subject to subdivision (b) of Section 201;

(c) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation,

(d) The manner of converting the shares of each of the constituent corporations into shares or other securities of the surviving corporation and, if any shares of any of the constituent corporations are not to be converted solely into shares or other securities of the surviving corporation, the cash, property, rights or securities of any corporation which the holders of such shares are to receive in exchange for such shares, which cash, property, rights or securities of any corporation may be in addition to or in lieu of shares or other securities of the surviving corporation; and

(e) Such other details or provisions as are desired, if any, including, without limitation, a provision for the payment of cash in lieu of fractional shares or for any other arrangement with respect thereto consistent with the provisions of Section 407.

Each share of the same class or series of any constituent corporation (other than the cancellation of shares held by a constituent corporation or its parent or a wholly owned subsidary of either in another constituent corporation) shall, unless all shareholders of the class or series consent and except as provided in Section 407, be treated equally with respect to any distribution of cash, property, rights or securities. Notwithstanding subdivision (d), except in a short-form merger, and in the merger of a corporation into its subsidiary in which it owns at least 90 percent of the outstanding shares of each class, the nonredeemable common shares of a constituent corporation may be converted only into nonredeemable common shares of the surviving corporation or a parent party if a constituent corporation or its parent owns, directly or indirectly, shares of another constituent corporation representing more than 50 percent of the voting power of the other constituent corporation prior to the merger, unless all of the shareholders of the class consent and except as provided in Section 407.

SEC 7 Section 1104 of the Corporations Code is amended to read

1104 Any amendment to the agreement may be adopted and the

agreement so amended may be approved by the board and, if it changes any of the principal terms of the agreement, by the outstanding shares (Section 152) (if required by Chapter 12) of any constituent corporation in the same manner as the original agreement If the agreement so amended is approved by the board and the outstanding shares (if required) of each of the corporations, the agreement so amended shall then constitute the agreement of merger

SEC 8. Section 1108 of the Corporations Code is amended to read·

1108 (a) The merger of any number of domestic corporations with any number of foreign corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect such a merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a domestic corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter governing the merger of domestic corporations, or to Section 1110, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and of Section 407 and Chapters 12 (commencing with Section 1200) and 13 (commencing with Section 1300) (with respect to any domestic constituent corporations), the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a domestic corporation, the agreement and the officers' certificate of each domestic or foreign constituent corporation shall be filed as provided in Section 1103 and thereupon, subject to subdivision (c) of Section 110, the merger shall be effective as to each domestic constituent corporation, and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall by virtue of the filing automatically surrender its right to transact intrastate business

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any domestic disappearing corporation as of the time of effectiveness in such foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations a copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original or, in lieu thereof, either an executed counterpart of such agreement, certificate or other document or, in the case of a merger by agreement of merger, a copy of the agreement of merger with an officers' certificate of each constituent

corporation attached as prescribed in Section 1103; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall automatically by such filing surrender its right to transact intrastate business.

(e) The provisions of the last two sentences of Section 1101 and Chapters 12 (commencing with Section 1200) and 13 (commencing with Section 1300) apply to the rights of the shareholders of any of the constituent corporations which are domestic corporations and of any domestic corporation which is a parent party of any foreign constituent corporation

SEC. 9. Section 1112 is added to the Corporations Code, to read.

1112. If a disappearing corporation in a merger is a corporation governed by this division and the surviving corporation is a nonprofit public benefit corporation, a nonprofit mutual benefit corporation, or a nonprofit religious corporation, the merger shall be approved by all of the outstanding shares of all classes of the disappearing corporation, regardless of limitations or restrictions on the voting rights thereof, notwithstanding any provision of Chapter 12 (commencing with Section 1200).

SEC 10 Section 1201 of the Corporations Code is amended to read:

1201. (a) The principal terms of a reorganization shall be approved by the outstanding shares (Section 152) of each class of each corporation the approval of whose board is required under Section 1200, except as provided in subdivision (b) and except that (unless otherwise provided in the articles) no approval of any class of outstanding preferred shares of the surviving or acquiring corporation or parent party shall be required if the rights, preferences, privileges and restrictions granted to or imposed upon such class of shares remain unchanged (subject to the provisions of subdivision (c)). For the purpose of this subdivision, two classes of common shares differing only as to voting rights shall be considered as a single class of shares.

(b) No approval of the outstanding shares (Section 152) is required by subdivision (a) in the case of any corporation if such corporation, or its shareholders immediately before the reorganization, or both, shall own (immediately after the reorganization) equity securities, other than any warrant or right to subscribe to or purchase such equity securities, of the surviving or acquiring corporation or a parent party (subdivision (d) of Section 1200) possessing more than five-sixths of the voting power of the surviving or acquiring corporation or parent party In making the determination of ownership by the shareholders of a corporation, immediately after the reorganization, of equity securities pursuant to the preceding sentence, equity securities which they owned immediately before the reorganization as shareholders of another party to the transaction shall be disregarded For the purpose of this section only, the voting power of a corporation shall be calculated by assuming the conversion of all equity securities convertible

(immediately or at some future time) into shares entitled to vote but not assuming the exercise of any warrant or right to subscribe to or purchase such shares

(c) Notwithstanding the provisions of subdivision (b), a reorganization shall be approved by the outstanding shares (Section 152) of the surviving corporation in a merger reorganization if any amendment is made to its articles which would otherwise require such approval

(d) Notwithstanding the provisions of subdivision (b), a reorganization shall be approved by the outstanding shares (Section 152) of any class of a corporation which is a party to a merger or sale-of-assets reorganization if holders of shares of that class receive shares of the surviving or acquiring corporation or parent party having different rights, preferences, privileges or restrictions than those surrendered Shares in a foreign corporation received in exchange for shares in a domestic corporation have different rights, preferences, privileges and restrictions within the meaning of the preceding sentence

(e) Notwithstanding the provisions of subdivisions (a) and (b), a reorganization shall be approved by the affirmative vote of at least two-thirds of each class of the outstanding shares of any close corporation if the reorganization would result in their receiving shares of a corporation which is not a close corporation; provided, however, that the articles may provide for a lesser vote, but not less than a majority of the outstanding shares of each class

(f) Any approval required by this section may be given before or after the approval by the board. Notwithstanding approval required by this section, the board may abandon the proposed reorganization without further action by the shareholders, subject to the contractual rights, if any, of third parties.

SEC 11 Section 2113 of the Corporations Code is amended to read

2113 (a) The filing of an agreement of merger of a foreign disappearing corporation qualified to transact intrastate business in this state pursuant to Section 1103, or the filing pursuant to subdivision (d) of Section 1108 of an agreement, certificate or other document as to a merger which includes a disappearing foreign corporation qualified to transact intrastate business, or the filing of a certificate of ownership as to a foreign subsidiary corporation qualified to transact intrastate business in this state pursuant to Section 1110 constitutes the surrender by the foreign corporation of its right to engage in such business within this state

(b) With respect to corporations for which documents have not been filed as provided in subdivision (a), a certificate of surrender as prescribed by Section 2112 shall be filed by a foreign corporation qualified to transact intrastate business upon its merger into another foreign corporation

(c) In lieu of signature as prescribed by Section 2112, a certificate of surrender pursuant to subdivision (b) for a merged foreign

corporation may be signed in the name of the surviving corporation by an officer thereof. In such a case, the certificate of surrender must be accompanied by a certificate of an authorized public official of the state or place of incorporation of the merged foreign corporation that such corporation has been merged into another foreign corporation and setting forth the name and state or place of incorporation of the surviving foreign corporation.

SEC. 12. Section 13403 of the Corporations Code is amended to read:

13403. The provisions of the General Corporation Law shall apply to professional corporations, except where such provisions are in conflict with or inconsistent with the provisions of this part A professional corporation which has only one shareholder need have only one director who shall be such shareholder and who shall also serve as the president and treasurer of the corporation. The other officers of the corporation in such situation need not be licensed persons. A professional corporation which has only two shareholders need have only two directors who shall be such shareholders. The two shareholders between them shall fill the offices of president, vice president, secretary and treasurer

A professional medical corporation may establish in its articles or bylaws the manner in which its directors are selected and removed, their powers, duties, and compensation. Each term of office may not exceed three years.

CHAPTER 712

An act to amend Section 2 of Chapter 206 of the Statutes of 1976, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1. Section 2 of Chapter 206 of the Statutes of 1976 is amended to read

Sec. 2. This act shall remain in effect only until the first day of the first calendar month commencing more than 60 days after the existing federal law is amended by Congress to permit state taxation of sales of cigarettes by or through federal military installations.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 713

An act to amend, add, and repeal Section 13967 of the Government Code, relating to victims and witnesses of crimes

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 13967 of the Government Code is amended to read

13967 (a) Upon a person being convicted of a crime of violence committed in the State of California resulting in the injury or death of another person, if the court finds that the defendant has the present ability to pay a fine and finds that the economic impact of the fine upon the defendant's dependents will not cause such dependents to be dependent on public welfare the court shall, in addition to any other penalty, order the defendant to pay a fine commensurate with the offense committed, and with the probable economic impact upon the victim, of at least ten dollars ($10), but not to exceed ten thousand dollars ($10,000)

(b) In addition to any other penalty, in each felony or misdemeanor matter not described in subdivision (a), the court shall levy an assessment of twenty dollars ($20) for each felony and five dollars ($5) for each misdemeanor upon every fine, penalty, and forfeiture imposed and collected When any full deposit of bail is made by a person who is not in custody, and who is charged with a misdemeanor offense, the person making the deposit shall also deposit a sufficient amount to include the assessment Any person, upon whom an assessment has been levied, shall be entitled to a refund of that assessment if the person is acquitted of the offense or the charges of the offense are withdrawn Where multiple offenses are charged, a single assessment in accordance with this subdivision shall be added to the total fine or bail for all offenses. This subdivision shall have no application to infraction offenses.

(c) Any fine or assessment imposed pursuant to this section shall not be subject to any additional assessment under Section 13521 of the Penal Code The fine or assessment imposed pursuant to this section shall be deposited in the Indemnity Fund in the State Treasury, the proceeds of which shall be available for appropriation by the Legislature to be divided equally to indemnify persons filing claims pursuant to this article and to provide assistance to established local comprehensive programs for victims and witnesses, including but not limited to, pilot local assistance centers for victims and witnesses established pursuant to the provisions of Article 2 (commencing with Section 13835) of Chapter 4 of Title 6 of Part 4 of the Penal Code

(d) It is the intent of the Legislature that funds appropriated

pursuant to this section for local assistance centers for victims and witnesses shall be in addition to any funds appropriated as provided in Section 13835 8 of the Penal Code.

(e) Funds appropriated pursuant to this section shall be made available through the Office of Criminal Justice Planning to those public or private nonprofit programs for the assistance of victims and witnesses which

(1) Provide comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs which do not restrict services to victims and witnesses of a particular type or types of crimes

(2) Are recognized by the county board of supervisors as the major provider of comprehensive services to such victims and witnesses

(3) Are selected by the county board of supervisors as the eligible program to receive such funds.

(4) Assist victims of violent crimes in the preparation and presentation of their claims to the State Board of Control for indemnification pursuant to this article

(5) Cooperate with the State Board of Control in obtaining and verifying data required by this article.

This section shall remain in effect only until January 1, 1982, and as of that date is repealed.

SEC 2. Section 13967 is added to the Government Code, to read:

13967 Upon a person being convicted of a crime of violence committed in the State of California resulting in the injury or death of another person, if the court finds that the defendant has the present ability to pay a fine and finds that the economic impact of the fine upon the defendant's dependents will not cause such dependents to be dependent on public welfare the court shall, in addition to any other penalty, order the defendant to pay a fine commensurate with the offense committed, and with the probable economic impact upon the victim, of at least ten dollars ($10), but not to exceed ten thousand dollars ($10,000). In addition to any other penalty, upon a person being convicted of any other felony or misdemeanor there shall be levied a penalty assessment of ten dollars ($10) for each felony conviction and five dollars ($5) for each misdemeanor conviction upon every fine, penalty, and forfeiture imposed and collected by the courts. Any fine or penalty assessment imposed pursuant to this section shall not be subject to any penalty assessment imposed pursuant to Section 13521 of the Penal Code. The fine or penalty assessment imposed pursuant to this section shall be deposited in the Indemnity Fund in the State Treasury, hereby continued in existence, and the proceeds of which shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to this article

SEC 3 It is the intent of the Legislature that the amendments to Section 13967 of the Government Code which are made by Section 1 of this act shall remain in effect only until January 1, 1982 and on

that date Section 2 of this act shall become operative to restore Section 13967 to the form in which it read immediately prior to the effective date of this act

---

CHAPTER 714

An act relating to the University of California, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

I am deleting the appropriation contained in Section 2 of Senate Bill No 1058 because Federal Title II, PWEA financing is available to the University for the purposes of eradicating new tristeza virus at the Riverside Campus and the South Coast Field Station

With this deletion, I approve Senate Bill No 1058

EDMUND G BROWN JR , Governor

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

SECTION 1. The Legislature finds and declares that

(a) Severe strains of tristeza virus yellows and stem pitting, which were introduced long ago on early citrus importations, have recently been found in citrus variety blocks at the University of California at Riverside and at the South Coast Field Station

(b) The two new identified strains are spreading rapidly with the possibility of causing extensive damage to other citrus crops in that area.

(c) The infected trees identified to date are primarily in the world famous variety collection which is essential for continued research and teaching of citriculture

(d) In order to eradicate the virus disease, infected trees must be identified by laborious and expensive indexing methods, and then destroyed, and replaced by clean plant material

(e) Immediate treatment is vitally necessary to prevent the rapid spread of the disease to citrus crops in Southern California which would be disastrous to the citrus industry of this state

SEC 2. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the Regents of the University of California for the purpose of funding the costs of eradicating the tristeza virus infecting citrus trees at the University of California, Riverside Campus

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 implement the proposal to control seedling yellows and stem pitting tristeza virus at the University of California, Riverside

Campus at the earliest possible time, and thus reduce the chances that further disease will spread to other citrus crops in that area, it is necessary that this act take immediate effect.

CHAPTER 715

An act to add Section 4514.3 to the Public Resources Code, relating to forest practices

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1 Section 4514.3 is added to the Public Resources Code, to read

4514.3 (a) Timber operations conducted pursuant to this chapter are exempt from the waste discharge requirements of Article 4 (commencing with Section 13260) of Chapter 4 of Division 7 of the Water Code; provided, that there is a certification by the federal Environmental Protection Agency that the provisions of this chapter constitute best management practices for silviculture pursuant to Section 208 of the Federal Water Pollution Control Act.

(b) The exemption contained in subdivision (a) shall not apply when any of the following occurs:

(1) The board requests issuance of waste discharge requirements.

(2) There has been a finding by the State Water Resources Control Board that the board has failed to maintain a water quality regulatory process consistent with the certification required under subdivision (a)

(3) After monitoring the water quality impacts from timber operations conducted in compliance with this chapter, there has been a finding by the State Water Resources Control Board that compliance with best management practices would result in less water quality protection than required in water quality control plans approved pursuant to Section 13245 of the Water Code

---

CHAPTER 716

An act to add Section 120050.5 to, and to amend Section 120053 of, the Public Utilities Code, relating to transportation.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1. Section 120050.5 is added to the Public Utilities Code, to read

120050.5. Notwithstanding Section 120050, a former member of the board may be appointed to the board by his or her former appointing authority to the board.

SEC 2. Section 120053 of the Public Utilities Code is amended to read:

120053. The San Diego Metropolitan Transit Development Board may, at any time after the first segment of an areawide guideway system enters revenue service, assume the operation of the San Diego Transit Corporation.

CHAPTER 717

An act to add Section 529.5 to the Penal Code, relating to identification documents.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 18, 1979.]

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

SECTION 1. The Legislature recognizes that the California driver's license and the California identification card are now accepted as identity cards for check cashing, establishing credit accounts, and other activities requiring positive proof of identity.

The Legislature further recognizes that state and local law enforcement agencies rely upon these cards as a convenient method of confirming an individual's identity.

The Legislature further recognizes that the criminal use of false identification in this state is increasing.

Therefore, it is declared as a matter of legislative policy that the driver's license and identification card issued by the Department of Motor Vehicles are the basic identification documents in this state, and that the state has a legitimate, substantial, and compelling interest in insuring the accuracy and integrity of this identification system.

SEC. 2. Section 529.5 is added to the Penal Code, to read.

529.5. Every person who manufactures, sells, offers for sale, or transfers any document, not amounting to counterfeit, purporting to be a government issued identification card or driver's license, which by virtue of the wording or appearance thereon could reasonably deceive an ordinary person into believing that it is issued by a government agency, and who knows such document is not a government issued document, is guilty of a misdemeanor.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and

Taxation Code, there shall be no appropriation made by this act pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes Paragraph (2) of subdivision (c) of Section 2253.2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act

---

CHAPTER 718

An act to amend Sections 14660, 15802, and 25351 of, and to add Sections 15808 1, 25351 1, 25351.15, 37352 1, and 37352.2, to, the Government Code, relating to public buildings

[Approved by Governor September 18, 1979 Filed with Secretary of State September 18, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 14660 of the Government Code is amended to read

14660 The director may acquire title to real property in the name of the state whenever the acquisition of real property is authorized or contemplated by law, if no other state agency is specifically authorized and directed to acquire it However, after January 1, 1980, if the property to be constructed, purchased, or leased for a period of five years firm term or more, is located in a standard metropolitan statistical area (SMSA) with a population of 250,000 or more according to the most recent decennial census, which is served by a public transit operator, as defined in Section 99210 of the Public Utilities Code, and is not located within a public transit corridor, as defined in Section 50093 5 of the Health and Safety Code, the property to be constructed, purchased, or leased shall be subject to the determination required in Section 15808 1

For purposes of this section, "construction" does not include repair or furnishing

SEC 2 Section 15802 of the Government Code is amended to read

15802 The following terms whenever used in this part have the meanings given in this section except where the context clearly indicates otherwise

(a) "Board" means the State Public Works Board

(b) "Construction" includes the extension, enlargement, repair,

renovation, restoration, improvement, furnishing, and equipping of any public building.

(c) "Public building" includes any structure, building, facility, or work which a state agency is authorized to construct and automobile parking lots, landscaping, and other facilities, including furnishings and equipment, incidental to the use of any building, and also includes the site thereof, and any easements or rights of way appurtenant thereto or necessary for its full use.

(d) "Acquire" includes purchase, condemnation, lease, and gift.

(e) "Cost of a public building" includes, but is not limited to, the cost of all real estate, properties, rights, and easements acquired, the cost of construction of public buildings and the furnishing and equipment of them, all financing charges, interest prior to, during and for a period of six months after construction, engineering, architects' and legal expenses, including the cost of plans, specifications, and surveys, estimates of cost and revenues, administrative expenses, and such other expenses as are necessary or incident to the financing of public buildings, or to determine the feasibility or practicability of any public buildings, and the condemnation of property necessary for use of, or in connection with, any public building

(f) "Property" includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this part.

(g) "Public transit operator" means those entities defined in Section 99210 and related sections of the Public Utilities Code, and includes those public transit operators receiving operating subsidies pursuant to the Mills-Alquist-Deddeh Transportation Development Act of 1971.

(h) "Public transit corridor" means those areas defined in Section 50093 5 of the Health and Safety Code.

(i) "Transportation planning agency" means the entity specified in Section 29532

SEC 3. Section 15808.1 is added to the Government Code, to read

15808 1 After January 1, 1980, with respect to the construction, purchase, or lease for a period of five years firm term or more, of buildings for the conduct of state business which are located or will be located in a standard metropolitan statistical area (SMSA) with a population of 250,000 or more according to the most recent decennial census, which is served by a public transit operator, the State Public Works Board, the Department of Finance, and the Department of General Services shall give consideration to the location of existing public transit corridors in the area Construction, purchase, or lease of buildings for a period of five years firm term or more at locations outside of existing public transit corridors may be approved after the board or department, as the case may be, has determined that the purpose of the facility does not require transit access or the transit operator will provide service as needed, to effectively serve the

facility The board or departments may request the assistance of the transit operator in making their determination and shall notify the operator of their decision

SEC 4 Section 25351 of the Government Code is amended to read

25351 The board may construct, lease, build, rebuild, furnish, refurnish, or repair buildings for a hospital, almshouse, courthouse, jail, historical museum, aquarium, library, art gallery, art institute, exposition building for exhibiting and advertising farming, mining, manufacturing, livestock raising, and other resources of the county, stadium, coliseum, sports arena, or sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibition, spectacles and other public meetings, and such other public buildings as are necessary to carry out the work of the county government Library buildings shall be constructed, built, repaired or refurnished only from taxes levied upon property which is a part of the county free library system as defined in Chapter 6 (commencing with Section 19100) of Part 11 of the Education Code

SEC 4 5 Section 25351 1 is added to the Government Code, to read

25351 1 After January 1, 1980, with respect to the construction, purchase, or lease of buildings which are located or will be located in a standard metropolitan statistical area (SMSA) with a population of 250,000 or more according to the most recent decennial census, which is served by a public transit operator, as defined in Section 99210 of the Public Utilities Code, the board shall give consideration to the location of existing public transit corridors, as defined in Section 50093 5 of the Health and Safety Code, for the area Construction, purchase, or lease of buildings at locations outside of existing public transit corridors may be approved after the board has determined· (1) the purpose of the facility does not require transit access, or (2) it is not feasible to locate the facility in an existing transit corridor, or (3) the transit operator will provide service as needed to effectively serve the facility. The board may request the assistance of the transit operator in making its determination and shall notify the operator of its decision.

SEC 4 7 Section 25351 15 is added to the Government Code, to read

25351 15 The requirement of Section 25351 1 shall be met if the board has obtained from the transportation planning agency approval of its procedures and criteria for giving adequate consideration to the location of existing public transit corridors when constructing, purchasing, or leasing public buildings, or if the county is served by a countywide, statutorily created transit district Before the transportation planning agency approves such procedures and criteria, any transit operator in the county shall have 45 days to review and comment

SEC 5 Section 37352 1 is added to the Government Code, to read

37352 1 After January 1, 1980, with respect to the construction, purchase, or lease of buildings which are located or will be located in a standard metropolitan statistical area (SMSA) with a population of 250,000 or more according to the most recent decennial census, which is served by a public transit operator, as defined in Section 99210 of the Health and Safety Code, the legislative body shall give consideration to the location in existing public transit corridors, as defined in Section 50093.5 of the Health and Safety Code, for the area. Construction, purchase, or lease of buildings at locations outside of existing public transit corridors may be approved after the legislative body has determined: (1) the purpose of the facility does not require transit access, or (2) it is not feasible to locate the facility in an existing transit corridor; or (3) the transit operator will provide service as needed to effectively serve the facility The board may request the assistance of the transit operator in making its determination and shall notify the operator of its decision.

SEC 6 Section 37352.2 is added to the Government Code, to read

37352 2 The requirements of Section 37352 1 shall be met if the legislative body has obtained from the transportation planning agency approval of its procedures and criteria for giving adequate consideration to the location of existing public transit corridors when acquiring public buildings or if the legislative body is the governing body of the transit operator. Before the transportation planning agency approves such procedures and criteria, any transit operator in the county shall have 45 days to review and comment

SEC 7. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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 It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 719

An act to amend Section 7 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 18, 1979 Filed with Secretary of State September 18, 1979]

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

SECTION 1. Section 7 of the Yuba County Water Agency Act (Chapter 788 of the Statutes of 1959) is amended to read:

Sec. 7 (a) The board of supervisors of the county shall be ex officio members of the board of directors of the agency. Directors shall be entitled to receive from the agency the sum of twenty dollars ($20) for each meeting attended, plus actual, necessary and reasonable traveling expenses. The basis for compensation of the directors, and the amount thereof, can be altered only by a four-fifths vote of the directors and the approval of a majority of the advisory council. The board of directors may adopt reasonable rules and regulations to carry out its powers and duties. The board of directors shall elect a chairman, who shall preside at all meetings of the board and in case of his absence or inability to act, the members present must, by an order entered in their records, select one of their number to act as temporary chairman Any member of the board may administer oaths when necessary in the performance of his official duties. A majority of the members of the board shall constitute a quorum for the transaction of business, but no act of the board shall be valid or binding unless a majority of all members concur therein.

(b) There shall be created an advisory council to advise the board of directors The council shall consist of one member to be appointed by each district within the County of Yuba, to serve at the pleasure of such district. The advisory council shall meet each January, prior to the first January meeting of the agency, and elect two members of the board of directors of the agency, one of whom shall represent the districts situated to the north, and one district situated to the south, of the Yuba River. The members so elected shall serve for two-year terms with one elected each year. Two members shall initially be elected with one, chosen by lot, to serve an initial one-year term.

SEC 2 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 720

An act to amend Sections 70047, 73341, and 73351.1 of the Government Code, relating to courts.

[Became law without Governor's signature September 19, 1979. Filed with Secretary of State September 19, 1979.]

The people of the State of California do enact as follows

SECTION 1 Section 70047 of the Government Code is amended to read

70047. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a five-step salary plan with one-year increments as follows:

Step 1 Nineteen thousand four hundred four dollars ($19,404)

Step 2. Twenty thousand three hundred seventy-six dollars ($20,376)

Step 3 Twenty-one thousand three hundred ninety-six dollars ($21,396)

Step 4 Twenty-two thousand four hundred sixty-four dollars ($22,464)

Step 5 Twenty-three thousand five hundred eighty dollars ($23,580)

The step of entry to the above schedule shall be step 1 However, the judges of the court may appoint any such court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step, and if such higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range The compensation of each official reporter pro tempore shall be at the rate of seventy dollars ($70) a day for the days he actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him by law, he shall render stenographic or clerical assistance to the judge of the court to which he is assigned as such judge may direct

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. Such adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk, intermediate stenographer-clerk, and intermediate typist-clerk Any such reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made The

compensation of each official reporter pro tempore shall remain at the rate of seventy dollars ($70) a day for the days he actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

SEC. 2 Section 73341 of the Government Code is amended to read·

73341. Except as otherwise provided in this article, each municipal court district established in Contra Costa County shall have the number of judges set forth opposite the name of the judicial district over which such court has jurisdiction.

Bay Judicial District	5
Delta Judicial District	2
Mt. Diablo Judicial District	4
Walnut Creek-Danville Judicial District	3

SEC. 3. Section 73351 1 of the Government Code is amended to read:

73351 1. Classes of positions provided in Section 73350 are allocated to the salary schedule as follows:

(a) Deputy clerk I	Level 210
(b) Deputy clerk II	Level 256
(c) Deputy clerk III	Level 320
(d) Process clerk	Level 320
(e) Supervising process clerk	Level 368
(f) Deputy clerk IV	Level 383
(g) Deputy marshal	Level 417
(h) Chief deputy clerk	Level 463
(i) Deputy marshal sergeant	Level 465
(j) Assistant marshal	Level 529
(k) Clerk-administrator of the court (schedule B)	Level 535
(*l*) Marshal (schedule B)	Level 561
(m) Clerk-administrator of the court (schedule A)	Level 571
(n) Marshal (schedule A)	Level 579

SEC. 4 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 721

An act to amend Section 13201 of the Water Code, relating to water quality.

[Became law without Governor's signature September 19, 1979. Filed with Secretary of State September 19, 1979.]

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) All persons appointed to a regional board shall be subject to Senate confirmation, but shall not be required to appear before any committee of the Senate for purposes of such confirmation unless specifically requested to appear by the Senate Committee on Rules.

(c) Insofar as practicable, appointments shall be made in such manner as to result in representation on the board from all parts of the region.

(d) 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.

CHAPTER 722

An act to amend Sections 1163 and 1164 of the Harbors and Navigation Code, relating to pilots.

[Became law without the Governor's signature September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 1163 of the Harbors and Navigation Code is amended to read:

1163. (a) (1) Each retired or disabled pilot shall receive, as a monthly pension, that amount which is fifty dollars ($50) multiplied by the number of full years of service he performed as a pilot licensed under this division

(2) A pilot who retires or becomes disabled shall not begin to receive a pension until the benefit year next following the date on which he retires or becomes disabled.

(3) No retired pilot shall receive benefits pursuant to the pension plan in any benefit year unless his resignation as an active pilot was submitted, in writing, to the Board of Pilot Commissioners, prior to December of the immediately preceding calendar year. His resignation shall become effective no later than the last day of the month preceding the start of such benefit year.

(4) If a retired or disabled pilot who is receiving a pension dies without a wife surviving him, his successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(b) (1) The widow of a deceased pilot who would be eligible for a pension pursuant to subdivision (c) of Section 1164 shall receive, as a monthly pension, one-half of the amount that her deceased husband would have received as a pension pursuant to this section had he lived.

(2) If a retired or disabled pilot receiving a pension dies, his widow shall continue to receive the full pension to which her deceased husband was entitled for the balance of the benefit year, after which she shall receive the amount specified in paragraph (1) of this subdivision.

(3) When a widow receiving a pension dies, her successor in interest shall receive the proceeds of the pension for the remainder of the benefit year, after which time it shall cease.

(c) For the purposes of the computations described in paragraph (1) of subdivision (a) of this subdivision, six months or more of service by a pilot shall be considered a full year.

SEC. 2. Section 1164 of the Harbors and Navigation Code is amended to read:

1164. (a) A pilot shall be eligible for the pension provided in Section 1163 if he meets all of the following requirements:

(1) Held a license as a pilot and served at least five years in that capacity.

(2) Retired after January 1, 1972.

(3) Is at least 62 years of age.

(b) A disabled pilot shall be eligible for the pension provided in Section 1163 if it has been determined by the Board of Pilot Commissioners, based upon competent medical evidence, that such pilot is unable to perform the duties of a pilot

(c) A widow of a deceased pilot shall be eligible for the pension provided in subdivision (b) of Section 1163 if her deceased pilot husband died after January 1, 1972, and if he had held a license as a pilot.

CHAPTER 723

An act to amend Sections 375, 535, 605, 21201, 21201 5, 24003, 24005.5, 24006, 24012, 24252, 24411, 24603, 24607, 24608, 24953, 25102.5, 25106, 25252.5, 25258, 25259, 25275.5, 25352, 25804, 27002, 27302, 27304, 27305, 27314, 27459.5, 27802, 35409, and 40151 of, to add Sections 25950, 26704, and Article 16 (commencing with Section 26100) to Division 12 of, and to repeal Sections 2402.5, 25950, 26704, 27504, 35413 and Article 16 (commencing with Section 26100) of Division 12 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 375 of the Vehicle Code is amended to read:

375 "Lighting equipment" is any of the following lamps or devices.

(a) Any headlamp, auxiliary driving, passing, or fog lamp, fog taillamp, taillamp, stoplamp, supplemental stoplamp, license plate lamp, clearance lamp, side marker lamp, signal lamp or device, supplemental signal lamp; deceleration signal device, cornering lamp, running lamp, diffused nonglaring lamp, red, blue, or amber warning lamp, flashing red schoolbus lamp, side-mounted turn signal lamp, off-highway headlamp, schoolbus fog sidelamp, and traffic signal preemption device.

(b) Any operating unit or canceling mechanism for turn signal lamps or for the simultaneous flashing of turn signal lamps as vehicular hazard signals, and any advanced stoplamp switch.

(c) Any flasher mechanism for turn signals, red schoolbus lamps, warning lamps, the simultaneous flashing of turn signal lamps as vehicular hazard signals, and the headlamp flashing systems for emergency vehicles.

(d) Any equipment regulating the light emitted from any lamp or device or the light sources therein.

(e) Any reflector, including reflectors for use on bicycles and reflectors used for required warning devices.

SEC. 2. Section 535 of the Vehicle Code is amended to read:

535 Safety glazing material is any glazing material so constructed, treated, or combined with other materials as to reduce, in comparison with ordinary sheet, plate, or floatglass, the likelihood of injury to persons by glazing material whether it may be broken or

unbroken.

SEC. 3. Section 605 of the Vehicle Code is amended to read:

605. "Tire chains" are devices which are designed for use on tires to improve stopping, traction, and cornering ability upon snow or ice-covered surfaces.

SEC. 4. Section 2402.5 of the Vehicle Code is repealed.

SEC. 5. Section 21201 of the Vehicle Code is amended to read:

21201. (a) No person shall operate a bicycle on a roadway unless it is equipped with a brake which will enable the operator to make one braked wheel skid on dry, level, clean pavement.

(b) No person shall operate on the highway any bicycle equipped with handlebars so raised that the operator must elevate his hands above the level of his shoulders in order to grasp the normal steering grip area.

(c) No person shall operate upon any highway a bicycle which is of such a size as to prevent the operator from safely stopping the bicycle, supporting it in an upright position with at least one foot on the ground, and restarting it in a safe manner.

(d) Every bicycle operated upon any highway during darkness shall be equipped (1) with a lamp emitting a white light which, while the bicycle is in motion, illuminates the highway in front of the bicyclist and is visible from a distance of 300 feet in front and from the sides of the bicycle; (2) with a red reflector on the rear which shall be visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle; (3) with a white or yellow reflector on each pedal visible from the front and rear of the bicycle from a distance of 200 feet; and (4) with a white or yellow reflector on each side forward of the center of the bicycle, and with a white or red reflector on each side to the rear of the center of the bicycle, except that bicycles which are equipped with reflectorized tires on the front and the rear need not be equipped with these side reflectors. Such reflectors and reflectorized tires shall be of a type meeting requirements established by the department

(e) A lamp or lamp combination, emitting a white light, attached to the operator and visible from a distance of 300 feet in front and from the sides of the bicycle, may be used in lieu of the lamp required by clause (1) of subdivision (d).

SEC. 6. Section 21201.5 of the Vehicle Code is amended to read:

21201 5. (a) No person shall sell or offer for sale a reflex reflector or reflectorized tire of a type required on a bicycle unless it meets requirements established by the department. If there exists a federal Consumer Product Safety Commission regulation applicable to bicycle reflectors, the provisions of that regulation shall prevail over provisions of this code or requirements established by the department pursuant to this code relative to bicycle reflectors.

(b) No person shall sell or offer for sale a new bicycle that is not equipped with a white or yellow reflector on each pedal visible from the front and rear of the bicycle a white or yellow reflector on each

side forward of the center of the bicycle, a white or red reflector on each side to the rear of the center of the bicycle, except that bicycles which are equipped with reflectorized tires on the front and rear need not be equipped with these side reflectors and with a red reflector on the rear of the bicycle.

(c) Area reflectorizing material meeting the requirements of Section 25500 may be used on a bicycle.

SEC. 7. Section 24003 of the Vehicle Code is amended to read:

24003 No vehicle shall be equipped with any lamp or illuminating device not required or permitted in this code, nor shall any lamp or illuminating device be mounted inside a vehicle unless specifically permitted by this code. This section does not apply to:

(a) Interior lamps such as door, brake and instrument lamps, and map, dash, and dome lamps designed and used for the purpose of illuminating the interior of the vehicle.

(b) Lamps needed in the operation or utilization of those vehicles mentioned in Section 25801, or vehicles used by public utilities in the repair or maintenance of their service, or used only for the illumination of cargo space of a vehicle while loading or unloading.

(c) Warning lamps mounted inside an authorized emergency vehicle and meeting requirements established by the department.

SEC. 8. Section 24005 5 of the Vehicle Code is amended to read:

24005.5. It is unlawful for any person to sell or offer for sale for use on loads regulated by the department any type of synthetic fiber rope or webbing strap material unless it meets requirements established by the department.

SEC. 9. Section 24006 of the Vehicle Code is amended to read:

24006. No person shall sell or offer for sale either separately or as a part of the equipment of a new motor vehicle any equipment or device subject to requirements established by the department unless the equipment or device bears thereon the trademark or name and type or model designation under requirements established by the department and is accompanied by any printed instructions which may be required by the department as to the light source to be used with lamps, any particular methods of mounting or adjustment of lamps or other devices, and any other instructions as determined by the department necessary for compliance with this code.

SEC. 10. Section 24012 of the Vehicle Code is amended to read:

24012 All lighting equipment or devices subject to requirements established by the department shall comply with the engineering requirements and specifications, including mounting and aiming instructions, determined and publicized by the department.

SEC. 11. Section 24252 of the Vehicle Code is amended to read:

24252 (a) All lighting equipment of a required type installed on a vehicle shall at all times be maintained in good working order. Lamps shall be equipped with bulbs of the correct voltage rating corresponding to the nominal voltage at the lamp socket

(b) The voltage at any tail, stop, license plate, side marker or clearance lamp socket on a vehicle shall not be less than 85 percent

of the design voltage of the bulb. Voltage tests shall be conducted with the engine operating.

(c) Two or more lamp or reflector functions may be combined, provided each function subject to requirements established by the department meets such requirements.

(1) No turn signal lamp may be combined optically with a stoplamp unless the stoplamp is extinguished when the turn signal is flashing.

(2) No clearance lamp may be combined optically with any taillamp or identification lamp.

SEC. 12. Section 24411 of the Vehicle Code is amended to read:

24411. Notwithstanding any other provision of law, a vehicle may be equipped with not more than four lamps meeting requirements established by the department for use as headlamps while the vehicle is operated or driven off the highway. Such lamps shall be base mounted at a height of not less than 16 inches nor more than 80 inches at any place between the front of the vehicle and a line lying on a point 12 inches to the rear of the seat occupied by the driver, shall be wired independently of all other lighting circuits, and, whenever the vehicle is operated or driven upon a highway, shall be covered or hooded and all fuses removed.

SEC. 13. Section 24603 of the Vehicle Code is amended to read:

24603. Every motor vehicle which is not in combination with any other vehicle and every vehicle at the end of a combination of vehicles shall at all times be equipped with stoplamps mounted on the rear as follows:

(a) Every such vehicle shall be equipped with one or more stoplamps.

(b) Every such vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1958, shall be equipped with two stoplamps, except that trailers and semitrailers manufactured after July 23, 1973, which are less than 30 inches wide, may be equipped with one stoplamp which shall be mounted at or near the vertical centerline of the trailer. If such vehicle is equipped with two stoplamps, they shall be mounted as specified in subdivision (d).

(c) Stoplamps on vehicles manufactured on or after January 1, 1969, shall be mounted not lower than 15 inches nor higher than 72 inches, except that a tow car, in addition to being equipped with the required stoplamps, may also be equipped with two stoplamps which may be mounted not lower than 15 inches nor higher than the maximum allowable vehicle height and as far forward as the rearmost portion of the driver's seat in the rearmost position.

(d) Where two stoplamps are required, at least one shall be mounted at the left and one at the right side, respectively, at the same level.

(e) Stoplamps on vehicles manufactured on or after January 1, 1979, shall emit a red light. Stoplamps on vehicles manufactured before January 1, 1979, shall emit a red or yellow light. All stoplamps shall be plainly visible and understandable from a distance of 300 feet

to the rear both during normal sunlight and at nighttime, except that stoplamps on a vehicle of a size required to be equipped with clearance lamps shall be visible from a distance of 500 feet during such times.

(f) Stoplamps shall be actuated upon application of the service (foot) brake and the hand control head for air, vacuum, or electric brakes. In addition, all stoplamps may be activated by a mechanical device designed to function only upon sudden release of the accelerator while the vehicle is in motion. Such device shall meet requirements established by the department.

(g) Any vehicle may be equipped with supplemental stoplamps mounted to the rear of the rearmost portion of the driver's seat in its rearmost position in addition to the lamps required to be mounted on the rear of the vehicle. The supplemental stoplamp on that side of a vehicle toward which a turn will be made may flash as part of the supplemental turn signal lamp.

SEC 14. Section 24607 of the Vehicle Code is amended to read:

24607 Every vehicle subject to registration under this code shall at all times be equipped with red reflectors mounted on the rear as follows:

(a) Every vehicle shall be equipped with at least one reflector so maintained as to be plainly visible at night from all distances within 350 to 100 feet from the vehicle when directly in front of the lawful upper headlamp beams

(b) Every vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1965, shall be equipped with at least two reflectors meeting the visibility requirements of subdivision (a), except that trailers and semitrailers manufactured after July 23, 1973, which are less than 30 inches wide, may be equipped with one reflector which shall be mounted at or near the vertical centerline of the trailer If such vehicle is equipped with two reflectors, they shall be mounted as specified in subdivision (d).

(c) Every motortruck having an unladen weight of more than 5,000 pounds, every trailer coach, every camp trailer, every vehicle or vehicle at the end of a combination of vehicles subject to subdivision (a) of Section 22406, and every vehicle 80 or more inches in width manufactured on or after January 1, 1969, shall be equipped with at least two reflectors maintained so as to be plainly visible at night from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful upper headlamp beams.

(d) When more than one reflector is required, at least one shall be mounted at the left side and one at the right side, respectively, at the same level. Required reflectors shall be mounted not lower than 15 inches nor higher than 60 inches, except that a tow car, in addition to being equipped with the required reflectors, may also be equipped with two reflectors which may be mounted not lower than 15 inches nor higher than the maximum allowable vehicle height and as far forward as the rearmost portion of the driver's seat in the rearmost position Additional reflectors of a type meeting

requirements established by the department may be mounted at any height.

(e) Reflectors on truck tractors may be mounted on the rear of the cab. Any reflector installed on a vehicle as part of its original equipment prior to January 1, 1941, need not meet the requirements of the department provided it meets the visibility requirements of subdivision (a).

SEC. 15. Section 24608 of the Vehicle Code is amended to read:

24608. (a) Motortrucks, trailers, semitrailers, and buses 80 or more inches in width manufactured on or after January 1, 1968, shall be equipped with an amber reflector on each side at the front and a red reflector on each side at the rear. Any vehicle may be so equipped.

(b) Motortrucks, trailers, semitrailers, housecars, and buses 80 or more inches in width and 30 or more feet in length manufactured on or after January 1, 1968, shall be equipped with an amber reflector mounted on each side at the approximate midpoint of the vehicle. Any such vehicle manufactured prior to January 1, 1968, may be so equipped.

(c) Required reflectors on the sides of vehicles shall be mounted not lower than 15 inches nor higher than 60 inches. Additional reflectors of a type meeting requirements established by the department may be mounted at any height.

(d) Reflectors required or permitted in subdivisions (a) and (b) shall be so maintained as to be plainly visible at night from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful upper headlamp beams.

(e) Area reflectorizing material may be used in lieu of the reflectors required or permitted in subdivisions (a) and (b), provided each installation is of sufficient size to meet the photometric requirement for such reflectors.

SEC. 16. Section 24953 of the Vehicle Code is amended to read:

24953. (a) Any turn signal system used to give a signal of intention to turn right or left shall project a flashing white or amber light visible to the front and a flashing red or amber light visible to the rear.

(b) Side-mounted turn signal lamps projecting a flashing amber light to either side may be used to supplement the front and rear turn signals. Side-mounted turn signal lamps mounted to the rear of the center of the vehicle may project a flashing red light no part of which shall be visible from the front.

(c) In addition to any required turn signal lamps, any vehicle may be equipped with supplemental rear turn signal lamps mounted to the rear of the rearmost portion of the driver's seat in its rearmost position

SEC. 17. Section 25102.5 of the Vehicle Code is amended to read:

25102.5. (a) A schoolbus may be equipped with lamps mounted so as to be visible from the sides of the bus which may be lighted, in addition to other required lights, when, and only when, atmospheric

conditions such as fog, rain, snow, smoke, or dust, reduce the visibility of other vehicles to less than 500 feet.

(b) The type and mounting requirements of such lamps shall be established by regulations adopted by the department. The regulations shall be adopted by January 1, 1980.

SEC. 18. Section 25106 of the Vehicle Code is amended to read:

25106. (a) Any motor vehicle may be equipped with lighted white or amber cowl or fender lamps on the front. Any vehicle may be equipped with not more than one amber side lamp on each side near the front, nor more than one red side lamp on each side near the rear. The light source of each such lamp shall not exceed four standard candlepower.

(b) Lamps meeting requirements established by the department for side-marker or combination clearance and side-marker lamps may be installed on the sides of vehicles at any location, but any lamp installed within 24 inches of the rear of the vehicle shall be red, and any lamp installed at any other location shall be amber.

SEC 19 Section 25252.5 of the Vehicle Code is amended to read:

25252.5. (a) Every authorized emergency vehicle may be equipped with a system which flashes the upper-beam headlamps of the vehicle with the flashes occurring alternately from the front headlamp on one side of the vehicle to the front headlamp on the other side of the vehicle. The flashing of the headlamps shall consist only of upper-beam flashing, and not the flashing of any other light beam. Such system shall not be used during darkness, and shall be used as provided for in this section.

(b) "Upper-beam headlamp," as used in this section, means a headlamp or that part of a headlamp which projects a distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.

(c) The system provided for in subdivision (a) shall only be used when an authorized emergency vehicle is being operated pursuant to Section 21055

(d) Any equipment used as part of the system permitted in subdivision (a) shall be of a type meeting requirements established by the department.

SEC. 20. Section 25258 of the Vehicle Code is amended to read:

25258 (a) An authorized emergency vehicle operating under the conditions specified in Section 21055 may display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals.

(b) An authorized emergency vehicle used by the California Highway Patrol or any sheriff's or municipal police department in the performance of its duties may in addition display a steady or flashing blue warning light visible from the front, sides or rear thereof.

SEC. 21. Section 25259 of the Vehicle Code is amended to read:

25259. Any authorized emergency vehicle may display flashing

amber warning lights to the front, sides or rear. A vehicle operated by a police or traffic officer while in the actual performance of his duties as such officer may be equipped with top-mounted lamps emitting steady burning or flashing white light to either side.

SEC. 22. Section 25275.5 of the Vehicle Code is amended to read:

25275 5. Any bus operated either by a public agency or under the authority of a certificate of public convenience and necessity issued by the Public Utilities Commission may be equipped with a system of crime alarm lights The system of crime alarm lights shall consist of the installation of additional lamp sources, not exceeding 32 standard candlepower or 30 watts, in the front and rear clearance lamps required or permitted by Section 25100. Such lamps shall be operated by a flasher unit or units that are not audible inside the bus. When actuated, both rear crime alarm lights shall flash simultaneously and both front crime alarm lights shall flash simultaneously. Crime alarm lights shall be actuated only when a crime is in progress on board the bus or has recently been committed on board the bus.

SEC 23. Section 25352 of the Vehicle Code is amended to read:

25352. Any bus operated by a publicly owned transit system on regularly scheduled service may be equipped with a device capable of sending a signal that interrupts or changes the sequence patterns of an official traffic control signal, under the following conditions:

(a) If such a device is a flashing gaseous discharge lamp, such lamp shall not emit a visible light exceeding the amount specified by the department.

(b) Such device shall not be installed or used unless and until authorized on specific routes by either the Department of Transportation pursuant to Section 21350, or local authorities pursuant to Section 21351

(c) Any bus or system operating under the conditions specified herein shall allow emergency vehicles operating pursuant to Section 25258 or 21055 to have priority in changing the sequence patterns of an official traffic control signal.

SEC. 24. Section 25804 of the Vehicle Code is amended to read:

25804. Notwithstanding any other provision of this code, original lighting equipment installed on a vehicle manufactured prior to January 1, 1946, need not meet the requirements established by the department when the vehicle is used primarily for the purpose of historical exhibition.

SEC. 24.3. Section 25950 of the Vehicle Code is repealed.

SEC. 24 5. Section 25950 is added to the Vehicle Code, to read:

25950. This section applies to the color of lamps and to any reflector exhibiting or reflecting perceptible light of 0.05 candela or more per foot-candle of incident illumination. Unless provided otherwise, the color of lamps and reflectors upon a vehicle shall be as follows.

(a) The emitted light from all lamps and the reflected light from all reflectors, visible from in front of a vehicle, shall be white

or yellow, except as follows:

(1) Rear sidemarker lamps required by Section 25100 may show red to the front.

(2) The color of foglamps described in Section 24403 may be in the color spectrum from white to yellow.

(b) The emitted light from all lamps and the reflected light from all reflectors, visible from the rear of a vehicle, shall be red except as follows:

(1) Stoplamps on vehicles manufactured before January 1, 1979, may show yellow to the rear.

(2) Turn signal lamps may show yellow to the rear.

(3) Front sidemarker lamps required by Section 25100 may show yellow to the rear.

(4) Backup lamps shall show white to the rear.

All lamps and reflectors visible from the front, sides, or rear of a vehicle, except headlamps, may have any unlighted color, provided the emitted light from all lamps or reflected light from all reflectors complies with the required color. Except for backup lamps, the entire effective projected luminous area shall be covered by an inner lens of the required color when the unlighted color differs from the required emitted light color. Taillamps, stoplamps, and turn signal lamps that are visible to the rear may be white when unlighted on vehicles manufactured before January 1, 1974.

SEC. 25. Article 16 (commencing with Section 26100) of Division 12 of the Vehicle Code is repealed.

SEC. 26. Article 16 (commencing with Section 26100) is added to Division 12 of the Vehicle Code, to read:

Article 16. Equipment Testing

26100. No person shall sell or offer for sale for use upon or as part of the equipment of a vehicle, nor shall any person use upon a vehicle, any lighting equipment, safety glazing material, or other device that does not meet the provisions of Section 26104. This section does not apply to a taillamp or stop lamp in use on or prior to December 1, 1935

26101. No person shall sell or offer for sale for use upon or as part of the equipment of a vehicle, nor shall any person use upon a vehicle, any device which is intended to modify the original design or performance of any lighting equipment, safety glazing material, or other device, unless the modifying device meets the provisions of Section 26104. This section does not apply to a taillamp or stop lamp in use on or prior to December 1, 1935.

26102. In the event any equipment in actual use meets the requirements of this code or a department regulation adopted pursuant to this code, a subsequent regulation shall not require the replacement of the equipment and shall be applicable only to equipment installed after the effective date of the regulation.

26103. (a) The department may adopt and enforce regulations

establishing standards and specifications for lighting equipment listed in Section 375 and for safety belts, safety glazing material, safety helmets, sirens, tire chains, bunk stakes, and synthetic binders. The standards and specifications may include installation and aiming requirements

(b) If there exists a Federal Motor Vehicle Safety Standard adopted pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C., 1381 et seq.) covering the same aspect of performance of a device, the provisions of that standard shall prevail over provisions of this code or regulations adopted pursuant to this code. Lamps, devices, and equipment certified by the manufacturer to meet applicable federal motor vehicle safety standards as original equipment on new vehicles and the identical replacements for those items need not be certified to the Department of the California Highway Patrol.

26104 (a) Every manufacturer who sells or offers for sale devices subject to requirements established by the department shall, before the device is offered for sale, have laboratory test data showing compliance with such requirements. Tests may be conducted by the manufacturer.

(b) The department may at any time request from the manufacturer a copy of the test data showing proof of compliance of any device with the requirements established by the department and additional evidence that due care was exercised in maintaining compliance during production. If the manufacturer fails to provide such proof of compliance within 30 days of notice from the department, the department may prohibit the sale of the device in this state until acceptable proof of compliance is received by the department.

26105. The department may purchase any equipment sold for use on vehicles and test or retest the same as to conformance with the requirements of this code and department regulations adopted pursuant to this code and any expense incurred in such purchase and test shall be a legal charge against the Motor Vehicle Fund.

26106 The department may issue a permit for the use of equipment for experimental purposes. The use of such equipment under the permit is not a violation of this code.

SEC. 27. Section 26704 of the Vehicle Code is repealed.

SEC. 28 Section 26704 is added to the Vehicle Code, to read:

26704. Wherever the term "safety glazing material" is used in this article, it means safety glazing material of a type meeting requirements established by the department.

SEC. 29. Section 27002 of the Vehicle Code is amended to read:

27002 No vehicle, except an authorized emergency vehicle, shall be equipped with, nor shall any person use upon a vehicle any siren except that an authorized emergency vehicle shall be equipped with a siren meeting requirements established by the department.

SEC. 30. Section 27302 of the Vehicle Code is amended to read

27302 No person shall sell or offer for sale any seatbelt or

attachments thereto for use in a vehicle unless it complies with requirements established by the department.

SEC. 31. Section 27304 of the Vehicle Code is amended to read:

27304. All vehicles owned and utilized in driver training by a driver training school licensed under the provisions of Chapter 1 (commencing with Section 11100) of Division 5 or in a course in automobile driver training in any secondary school maintained under the Education Code shall be equipped with a seatbelt for the driver and each passenger. Such seatbelt shall comply with requirements established by the department

It shall be unlawful for any driver or passenger to operate or ride in such a vehicle while it is being operated for the purposes of driver training, unless such person is utilizing an installed seatbelt in the proper manner

SEC 32 Section 27305 of the Vehicle Code is amended to read:

27305. All publicly owned firefighting vehicles designed for and used in responding to emergency fire calls and in combating fires shall be equipped with seatbelts for each seat utilized by personnel when such vehicles are being operated. Such seatbelts shall comply with requirements established by the department.

SEC 33 Section 27314 of the Vehicle Code is amended to read.

27314 (a) No dealer shall sell or offer for sale any used passenger vehicle that was manufactured on or after January 1, 1962, other than a motorcycle, unless it is equipped with at least two seatbelts which are installed for the use of persons in the front seat of the vehicle.

(b) No dealer shall sell or offer for sale any used passenger vehicle manufactured on or after January 1, 1968, other than a motorcycle, unless it is equipped with seatbelts for each seating position.

(c) Seatbelts required in subdivisions (a) and (b) shall comply with regulations established by the department.

(d) The requirements of this section shall not apply to sales to dealers, automobile dismantlers, or junk dealers.

SEC 34. Section 27459.5 of the Vehicle Code is amended to read·

27459.5. No person shall sell, offer for sale, lease, install, or replace on a vehicle for use on a highway, any tire chains which are not in compliance with requirements established by the department

SEC. 35. Section 27504 of the Vehicle Code is repealed.

SEC. 36. Section 27802 of the Vehicle Code is amended to read·

27802 (a) The department may adopt reasonable regulations establishing specifications and standards for safety helmets offered for sale, or sold, for use by drivers and passengers of motorcycles and motorized bicycles as it determines are necessary for the safety of such drivers and passengers. In developing the regulations, the department shall consider all standards which have been developed and adopted as a requirement by other states

(b) No person shall sell, or offer for sale, for use by a driver or passenger of a motorcycle or motorized bicycle any safety helmet which is not of a type meeting requirements established by the department

SEC. 37. Section 35409 of the Vehicle Code is amended to read:

35409. (a) Any motor vehicle used for the purpose of taking photographs, motion pictures, or television pictures or for teaching safe driving may be equipped with a dismountable platform or other device extending forward of either the fenders or cab structure or radiator, whichever extends farthest toward the front of such vehicle, for a distance not exceeding five feet while such vehicle is in use for such purpose.

(b) Any device used for the sole purpose of teaching safe driving, as provided in subdivision (a), shall be of a type authorized by the Department of the California Highway Patrol and the Department of Motor Vehicles.

SEC. 38. Section 35413 of the Vehicle Code is repealed.

SEC. 39. Section 40151 of the Vehicle Code is amended to read:

40151. (a) Whenever any lighting equipment or device does not meet requirements established by the Department of the California Highway Patrol, the officer making the inspection shall direct the driver to remove the lighting equipment or device within 24 hours.

(b) Whenever any lighting equipment or device meets requirements established by the department but by reason of faulty adjustment or otherwise fails to comply with this code, the officer making the inspection shall direct the driver to make it comply with this code within 48 hours.

CHAPTER 724

An act to amend Sections 5003, 5007, 5016, 5033, 5034, 5036, 5049, 5053, 5056, 5057, 5059, 5060, 5061, 5068, 5073, 5075, 5078, 5111, 5121, 5130, 5132, 5140, 5141, 5142, 5151, 5211, 5212, 5220, 5222, 5225, 5231, 5236, 5237, 5241, 5310, 5311, 5312, 5330, 5331, 5332, 5340, 5341, 5410, 5420, 5510, 5511, 5512, 5513, 5514, 5515, 5521, 5522, 5527, 5610, 5611, 5613, 5614, 5616, 5810, 5811, 5812, 5814, 5815, 5817, 5911, 6011, 6012, 6110, 6210, 6214, 6321, 6331, 6335, 6336, 6510, 6513, 6610, 6611, 6612, 6710, 6714, 6721, 7111, 7121, 7130, 7132, 7140, 7141, 7142, 7151, 7211, 7212, 7220, 7222, 7225, 7231, 7233, 7235, 7236, 7240, 7310, 7311, 7312, 7313, 7315, 7330, 7331, 7333, 7340, 7341, 7351, 7411, 7413, 7420, 7510, 7511, 7512, 7513, 7514, 7515, 7521, 7522, 7527, 7611, 7613, 7615, 7810, 7812, 7814, 7815, 8010, 8011, 8012, 8110, 8210, 8214, 8321, 8331, 8335, 8336, 8510, 8610, 8611, 8617, 8710, 8714, 8719, 8721, 9121, 9130, 9132, 9134, 9140, 9141, 9142, 9150, 9151, 9210, 9211, 9212, 9225, 9310, 9311, 9312, 9330, 9331, 9332, 9340, 9410, 9412, 9413, 9414, 9511, 9514, 9620, 9630, 9640, 9650, 9680, 9912, 9913, 10824, and 12205 of, to add Sections 5153, 5813.5, 7153, 7813.5, 8011.5, 8724, 9153, 9419, 9631, 9632, and 9633 to, to repeal Sections 5042, 5066, and 9919 of, and to repeal and add Sections 5041, 5150, 5233, 5240, 5813, 7150, and 7813 of, the Corporations Code, and to amend Section 12203.7 of the Government Code, relating to nonprofit corporations.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 5003 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5003. (a) The provisions of this part apply to:

(1) Corporations organized under Part 2, Part 3, and Part 4 of this division;

(2) Corporations expressly subject to Part 2, Part 3 or Part 4 of this division pursuant to a particular provision of this division or Division 3 (commencing with Section 12000) or other specific statutory provision;

(3) Corporations which pursuant to the express provisions of Part 1, Division 2 (commencing with Section 9000) in effect immediately prior to January 1, 1980, are subject to the provisions of Part 1 of Division 2 and which, on or after January 1, 1980, are subject to the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law or the Nonprofit Religious Corporation Law, pursuant to Section 9912

(4) Corporations expressly subject to Part 1, Division 2 (commencing with Section 9000) in effect immediately prior to January 1, 1980, pursuant to a particular provision of this division or Division 3 (commencing with Section 12000) or other specific statutory provision in effect immediately prior to January 1, 1980, and which, on or after January 1, 1980, are subject to the Nonprofit Public Benefit Corporation Law, the Nonprofit Mutual Benefit Corporation Law, or the Nonprofit Religious Corporation Law, pursuant to Section 9912, and

(5) Corporations incorporated as permitted by subdivision (d) of Section 9911

(b) The existence of corporations formed or existing on the date of enactment or reenactment of this part, Part 2, Part 3, Part 4 or Part 5 shall not be affected by the enactment or reenactment of such parts or by any change in the requirements for the formation of corporations or by the amendment or repeal of the laws under which they were formed or created

(c) Neither the repeals effected by the enactment or reenactment of this part or of Part 2, Part 3, Part 4 or Part 5, nor the amendment thereof shall impair or take away any existing liability or cause of action against any corporation, its members, directors or officers incurred prior to the time of such enactment, reenactment or amendment

SEC 1.5 Section 5007 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

5007 Any agreement, certificate or other instrument relating to a domestic corporation, a foreign corporation, or a foreign business corporation filed pursuant to the provisions of this part, Part 2, Part

3, Part 4 or Part 5 may be corrected with respect to any misstatement of fact contained therein, any defect in the execution thereof or any other error or defect contained therein, by filing a certificate of correction entitled "Certificate of Correction of _____ (insert here the title of the agreement, certificate or other instrument to be corrected and name(s) of the corporation or corporations)"; provided, however, that no such certificate of correction shall alter the wording of any resolution which was in fact adopted by the board or the members or delegates or effect a corrected amendment of articles which amendment as so corrected would not in all respects have complied with the requirements of this part, Part 2, Part 3, Part 4 or Part 5 at the time of filing of the agreement, certificate or other instrument being corrected. Such certificate of correction shall be signed and verified or acknowledged as provided in this part with respect to the agreement, certificate or other instrument being corrected. It shall set forth the following:

(a) The name or names of the corporation or corporations.

(b) The date the agreement, certificate or other instrument being corrected was filed.

(c) The provision in the agreement, certificate or other instrument as corrected and, if the execution was defective, wherein it was defective.

The filing of the certificate of correction shall not alter the effective time of the agreement, certificate or instrument being corrected, which shall remain as its original effective time, and such filing shall not affect any right or liability accrued or incurred before such filing, except that any right or liability accrued or incurred by reason of the error or defect being corrected shall be extinguished by such filing if the person having such right has not detrimentally relied on the original instrument.

SEC. 2. Section 5016 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5016. A notice or report mailed or delivered as part of a newsletter, magazine or other organ regularly sent to members shall constitute written notice or report pursuant to this division when addressed and mailed or delivered to the member, or in the case of members who are residents of the same household and who have the same address on the books of the corporation, when addressed and mailed or delivered to one of such members, at the address appearing on the books of the corporation.

SEC. 3. Section 5033 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5033. "Approval by (or approval of) a majority of all members" means approval by an affirmative vote (or written ballot in conformity with Section 5513, Section 7513, or Section 9413) of a majority of the votes entitled to be cast Such approval shall include the affirmative vote of a majority of the outstanding memberships of each class, unit, or grouping of members entitled, by any provision of the articles or bylaws or of Part 2, Part 3, Part 4 or Part 5 to vote

as a class, unit, or grouping of members on the subject matter being voted upon and shall also include the affirmative vote of such greater proportion, including all, of the votes of the memberships of any class, unit, or grouping of members if such greater proportion is required by the bylaws (subdivision (e) of Section 5151, subdivision (e) of Section 7151, or subdivision (e) of Section 9151) or Part 2, Part 3, Part 4 or Part 5.

SEC. 4. Section 5034 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5034. "Approval by (or approval of) the members" means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or written ballot in conformity with Section 5513, 7513, or 9413 or by the affirmative vote or written ballot of such greater proportion, including all of the votes of the memberships of any class, unit, or grouping of members as may be provided in the bylaws (subdivision (e) of Section 5151, subdivision (e) of Section 7151, or subdivision (e) of Section 9151) or in Part 2, Part 3, Part 4 or Part 5 for all or any specified member action.

SEC. 5. Section 5036 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5036. (a) Except as provided in subdivision (b) or (c), "authorized number" means 5 percent of the voting power.

(b) Where (disregarding any provision for cumulative voting which would otherwise apply) the total number of votes entitled to be cast for a director is 1,000 or more, but less than 5,000 the authorized number shall be 2½ percent of the voting power, but not less than 50.

(c) Where (disregarding any provision for cumulative voting which would otherwise apply) the total number of votes entitled to be cast for a director is 5,000 or more, the authorized number shall be one-twentieth of 1 percent of the voting power, but not less than 125

(d) Any right under Part 2, Part 3, or Part 4 which may be exercised by the authorized number, or some multiple thereof, may be exercised by a member with written authorizations obtained within any 11-month period from members who, in the aggregate, hold the equivalent voting power. Any such authorization shall specify the right to be exercised thereunder and the duration thereof (which shall not exceed three years).

(e) Where any provision of Part 2, Part 3, or Part 4 specifies twice the authorized number, that means two times the number calculated according to subdivision (a), (b) or (c)

SEC 6. Section 5041 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed

SEC 7 Section 5041 is added to the Corporations Code, to read

5041 "Class" refers to those memberships which. (a) are identified in the articles or bylaws as being a different type of

membership; or (b) have the same rights with respect to voting, dissolution, redemption and transfer. For the purpose of this section, rights shall be considered the same if they are determined by a formula applied uniformly.

SEC. 8. Section 5042 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed.

SEC. 8.5. Section 5049 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5049. "Distribution" means the distribution of any gains, profits or dividends to any member as such. As used in this section, "member" means any person who is a member as defined in Section 5056 and any person who is referred to as a member as authorized by subdivision (a) of Sections 5332, 7333 and 9332.

SEC. 8.6. Section 5053 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5053. "Foreign corporation" means any corporation incorporated in a jurisdiction other than California pursuant to that jurisdiction's law for the incorporation of nonprofit corporations; except that as used in subdivision (b) of Section 5122, in subdivision (c) of Section 7122, and in subdivision (b) of Section 9122, "foreign corporation" means a corporation described in Section 171.

SEC. 9. Section 5056 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5056. (a) "Member" means any person who, pursuant to a specific provision of a corporation's articles or bylaws, has the right to vote for the election of a director or directors or on a disposition of all or substantially all of the assets of a corporation or on a merger or on a dissolution unless the provision granting such right to vote is only effective as a result of paragraph (2) of subdivision (a) of Section 7132. "Member" also means any person who is designated in the articles or bylaws as a member and, pursuant to a specific provision of a corporation's articles or bylaws, has the right to vote on changes to the articles or bylaws.

(b) The articles or bylaws may confer some or all of the rights of a member, set forth in this part and in Parts 2 through 5 of this division, upon any person or persons who do not have any of the voting rights referred to in subdivision (a).

(c) Where a member of a corporation is not a natural person, such member may authorize in writing one or more natural persons to vote on its behalf on any or all matters which may require a vote of the members

(d) A person is not a member by virtue of any of the following:

(1) Any rights such person has as a delegate

(2) Any rights such person has to designate or select a director or directors

(3) Any rights such person has as a director

SEC 10 Section 5057 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

5057 A "membership" refers to the rights a member has

pursuant to a corporation's articles, bylaws and this division.

SEC. 10.1. Section 5059 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5059. "Nonprofit mutual benefit corporation" or "mutual benefit corporation" means a corporation which is organized under Part 3 (commencing with Section 7110), or subject to Part 3 under the provisions of subdivision (a) of Section 5003.

SEC. 10.3. Section 5060 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5060. "Nonprofit public benefit corporation" or "public benefit corporation" means a corporation which is organized under Part 2 (commencing with Section 5110) or subject to Part 2 under the provisions of subdivision (a) of Section 5003.

SEC. 10.5 Section 5061 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5061. "Nonprofit religious corporation" or "religious corporation" means a corporation which is organized under Part 4 (commencing with Section 9110) or subject to Part 4 pursuant to subdivision (a) of Section 5003.

SEC. 10.7. Section 5066 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed.

SEC 10.8. Section 5068 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5068 "Proper county" means the county where the corporation's principal office in this state is located or, if the corporation has no such office, the County of Sacramento.

SEC. 10.9. Section 5073 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5073. (a) Except as provided in subdivision (b), "subsidiary" of a specified corporation means a corporation more than 50 percent of the voting power of which is owned directly, or indirectly through one or more subsidiaries, by the specified corporation.

(b) For the purpose of Section 7315, "subsidiary" of a specified corporation means a corporation more than 25 percent of the voting power of which is owned directly, or indirectly through one or more subsidiaries as defined in subdivision (a), by the specified corporation.

SEC. 11. Section 5075 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5075. "Vacancy" when used with respect to the board means any authorized position of director which is not then filled, whether the vacancy is caused by death, resignation, removal, change in the number of directors authorized in the articles or bylaws (by the board or the members) or otherwise.

SEC. 11.2. Section 5078 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5078 "Voting power" means the power to vote for the election of directors at the time any determination of voting power is made and does not include the right to vote upon the happening of some

condition or event which has not yet occurred. In any case where different classes of memberships are entitled to vote as separate classes for different members of the board, the determination of percentage of voting power shall be made on the basis of the percentage of the total number of authorized directors which the memberships in question (whether of one or more classes) have the power to elect in an election at which all memberships then entitled to vote for the election of any directors are voted.

SEC 11.4. Section 5111 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5111. Subject to any other provisions of law of this state applying to the particular class of corporation or line of activity, a corporation may be formed under this part for any public or charitable purposes.

SEC 11.5. Section 5121 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5121. (a) In the case of an existing unincorporated association, the association may change its status to that of a corporation upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) In addition to the matters required to be set forth in the articles pursuant to Section 5130, the articles in the case of an incorporation authorized by subdivision (a) shall set forth that an existing unincorporated association, stating its name, is being incorporated by the filing of the articles.

(c) The articles filed pursuant to this section shall be accompanied by an affidavit of any two officers or governing board members of the association stating that the incorporation of the association by means of the articles to which the affidavit is attached has been approved by the association in accordance with its rules and procedures

(d) Upon the change of status of an unincorporated association to a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association who had any voting rights of the type referred to in Section 5056 become members of the corporation.

(e) The filing for record in the office of the county recorder of any county in this state in which any of the real property of the association is located of a copy of the articles of incorporation filed pursuant to this section, certified by the Secretary of State shall evidence record ownership in the corporation of all interests of the association in and to the real property located in that county.

(f) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired. Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place.

(g) If a corporation is organized by a person who is or was an officer, director or member of an unincorporated association and such corporation is not organized pursuant to subdivision (a), the unincorporated association may continue to use its name and the

corporation may not use a name which is the same as or similar to the name of the unincorporated association.

SEC. 12. Section 5130 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5130. The articles of incorporation of a corporation formed under this part shall set forth:

(a) The name of the corporation.

(b) The following statement:

"This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for (public or charitable [insert one or both]) purposes."

[If the purposes include "public" purposes, the articles shall, and in all other cases the articles may, include a further description of the corporation's purposes.]

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 6210.

SEC. 13. Section 5132 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (2), clause (i), of this section, or, in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610) and 17 (commencing with Section 6710) shall be distributed to the head organization.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(3) A provision which would allow any member to have more or

less than one vote in any election or other matter presented to the members for a vote

(4) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws.

SEC 14. Section 5140 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

5140 Subject to any limitations contained in the articles or bylaws and to compliance with other provisions of this division and any other applicable laws, a corporation, in carrying out its activities, shall have all of the powers of a natural person, including, without limitation, the power to.

(a) Adopt, use, and at will alter a corporate seal, but failure to affix a seal does not affect the validity of any instrument.

(b) Adopt, amend, and repeal bylaws.

(c) Qualify to conduct its activities in any other state, territory, dependency or foreign country.

(d) Issue, purchase, redeem, receive, take or otherwise acquire, own, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own bonds, debentures, notes and debt securities.

(e) Issue memberships.

(f) Pay pensions, and establish and carry out pension, deferred compensation, saving, thrift and other retirement, incentive and benefit plans, trusts and provisions for any or all of its directors, officers, employees, and persons providing services to it or any of its subsidiary or related or associated corporations, and to indemnify and purchase and maintain insurance on behalf of any fiduciary of such plans, trusts, or provisions.

(g) Levy dues, assessments, and admission fees.

(h) Make donations for the public welfare or for community funds, hospital, charitable, educational, scientific, civic, religious or similar purposes

(i) Assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or other encumbrance of all or any part of its property and income

(j) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others

(k) Act as trustee under any trust incidental to the principal objects of the corporation, and receive, hold, administer, exchange, and expend funds and property subject to such trust

(*l*) Carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage

(m) Pay the reasonable value of services rendered in this state to the corporation before January 1, 1975, and not previously paid, by any person who performed such services on a full-time basis under the direction of a religious organization in connection with the religious tenets of the organization. Such person shall have relied solely on the religious organization for his or her financial support for a minimum of five years. A payment shall not be made if such person or religious organization waives the payment or receipt of compensation for such services in writing. Payment may be made to such religious organization to reimburse it for maintenance of any person who rendered such services and to assist it in providing future support and maintenance; however, payment shall not be made from any funds or assets acquired with funds donated by or traceable to gifts made to the corporation by any person, organization or governmental agency other than the members, immediate families of members and affiliated religious organizations of the religious organization under whose direction the services were performed.

SEC 15. Section 5141 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5141. Subject to Section 5142.

(a) No limitation upon the activities, purposes, or powers of the corporation or upon the powers of the members, officers, or directors, or the manner of exercise of such powers, contained in or implied by the articles or by Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610), and 17 (commencing with Section 6710) shall be asserted as between the corporation or member, officer or director and any third person, except in a proceeding: (1) by a member or the state to enjoin the doing or continuation of unauthorized activities by the corporation or its officers, or both, in cases where third parties have not acquired rights thereby, (2) to dissolve the corporation, or (3) by the corporation or by a member suing in a representative suit against the officers or directors of the corporation for violation of their authority.

(b) Any contract or conveyance made in the name of a corporation which is authorized or ratified by the board or is done within the scope of authority, actual or apparent, conferred by the board or within the agency power of the officer executing it, except as the board's authority is limited by law other than this part, binds the corporation, and the corporation acquires rights thereunder whether the contract is executed or wholly or in part executory.

SEC 15 5 Section 5142 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5142 (a) Notwithstanding Section 5141, any of the following may bring an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of a charitable trust:

(1) The corporation, or a member in the name of the corporation pursuant to Section 5710.

(2) An officer of the corporation.

(3) A director of the corporation

(4) A person with a reversionary, contractual, or property interest in the assets subject to such charitable trust.

(5) The Attorney General, or any person granted relator status by the Attorney General.

The Attorney General shall be given notice of any action brought by the persons specified in paragraphs (1) through (4), and may intervene.

(b) In an action under this section, the court may not rescind or enjoin the performance of a contract unless:

(1) All of the parties to the contract are parties to the action;

(2) No party to the contract has, in good faith, and without actual notice of the trust restriction, parted with value under the contract or in reliance upon it; and

(3) It is equitable to do so.

SEC. 16. Section 5150 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed.

SEC. 17. Section 5150 is added to the Corporations Code, to read:

5150. (a) Except as provided in subdivision (c), and Sections 5151, 5220, 5224, 5512, 5613, and 5616, bylaws may be adopted, amended or repealed by the board unless the action would materially and adversely affect the rights of members as to voting or transfer.

(b) Bylaws may be adopted, amended or repealed by approval of members (Section 5034); provided, however, that such adoption, amendment or repeal also requires approval by the members of a class if such action would materially and adversely affect the rights of that class as to voting or transfer in a manner different than such action affects another class.

(c) The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 5151.

SEC. 18. Section 5151 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended, to read:

5151. (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 5151. The number or minimum number of directors may be one or more.

(b) Once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 5132.

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of conducting mail ballots.

(3) The qualifications, duties and compensation of directors; the time of their election; and the requirements of a quorum for directors' and committee meetings.

(4) The appointment and authority of committees.

(5) The appointment, duties, compensation and tenure of officers.

(6) The mode of determination of members of record.

(7) The making of reports and financial statements to members.

(8) Setting, imposing and collecting dues, assessments and admission fees.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members, consistent with the requirements of Section 5341.

(e) The bylaws may require, for any or all corporate actions (except as provided in Section 5222, subdivision (c) of Section 5616, and Section 6610), the vote of a larger proportion of, or all of, the members or the members of any class, unit, or grouping of members, or the vote of a larger proportion of, or all of, the directors, than is otherwise required by this part. Such a provision in the bylaws requiring such greater vote shall not be altered, amended or repealed except by such greater vote, unless otherwise provided in the bylaws.

(f) The bylaws may contain a provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

SEC 18.5. Section 5153 is added to the Corporations Code, to read:

5153. A corporation may provide in its bylaws for voting by its members or delegates on the basis of chapter or other organizational unit, or by region or other geographic grouping.

SEC. 19. Section 5211 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone or telegraph. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board

(3) Notice of a meeting need not be given to any director who

signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 5212, 5233, 5234, 5235, and subdivision (e) of Section 5238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action Such written consent or consents shall be filed with the minutes of the proceedings of the board Such action by written consent shall have the same force and effect as the unanimous vote of such directors

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis

SEC 20 Section 5212 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

5212 (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Appointments to such committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in the articles or bylaws. The bylaws may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of such committee or committees. The board may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee Any such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to.

(1) The approval of any action for which this part also requires approval of the members (Section 5034) or approval of a majority of all members (Section 5033).

(2) The filling of vacancies on the board or in any committee which has the authority of the board

(3) The fixing of compensation of the directors for serving on the board or on any committee

(4) The amendment or repeal of bylaws or the adoption of new bylaws.

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(6) The appointment of committees of the board or the members thereof

(7) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

(8) The approval of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Section 5233

(b) Subdivision (a) shall not apply to any committee which does not exercise the authority of the board

(c) Unless the bylaws otherwise provide, the board may delegate to any committee powers as authorized by Section 5210, but may not delegate the powers set forth in paragraphs (1) through (8) of subdivision (a) of this section

SEC. 21. Section 5220 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5220. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than three years, as are fixed in the articles or bylaws. In the absence of any provision in the articles or bylaws, the term shall be one year No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the

members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation without members and up to one-third of the directors authorized in the articles or bylaws of a corporation with members, may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 5222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034), subject, if so provided in the bylaws, to the consent of the person or persons entitled to designate or select any such director or directors.

(e) The one-third limit set forth in subdivision (d) does not apply to:

(1) Directors designated or selected by a government office, board, commission, department, agency or political subdivision.

(2) Directors designated or selected by a person who is elected by the members as an officer of the corporation.

(3) Directors appointed to fill vacancies on the board created by the death, resignation or removal of directors.

SEC. 22 Section 5222 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5222. (a) Subject to subdivisions (b) and (f) of this section, any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, such removal is approved by a majority of all members (Section 5033); or

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 5034).

(b) Except for a corporation having no members pursuant to Section 5310:

(1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 5616, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected, and

(2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

(d) Except as provided in this section and Sections 5221 and 5223, a director may not be removed prior to the expiration of such director's term of office.

(e) Where a director removed under this section or Section 5221 or 5223 was chosen by designation pursuant to subdivision (d) of Section 5220, then:

(1) Where a different person may be designated pursuant to governing article or bylaw provision, such new designation shall be made.

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(f) When by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, any director so designated may only be removed under this section with the written consent of that person or persons.

SEC. 23. Section 5225 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5225. (a) If a corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property, activities, or business will be impaired or lost, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws and whether or not an action is pending for an involuntary winding up or dissolution of the corporation, appoint a provisional director pursuant to this section. Action for such appointment may be brought by any director or by members holding not less than 33⅓ percent of the voting power.

(b) If a corporation has an uneven number of directors and the members are deadlocked so that they cannot elect successor directors at the time prescribed therefor, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws, upon petition of members holding 50 percent of the voting power, appoint a provisional director or directors pursuant to this section or order such other equitable relief as the court deems appropriate

(c) Any person bringing an action under subdivision (a) or (b) shall give notice to the Attorney General, who may intervene.

(d) The Attorney General may bring an action under subdivision (a) or (b).

(e) A provisional director shall be an impartial person, who is

neither a member nor a creditor of the corporation, nor related by consanguinity or affinity within the third degree according to the common law to any of the other directors of the corporation or to any judge of the court by which such provisional director is appointed. A provisional director shall have all the rights and powers of a director until the deadlock in the board or among members is broken or until such provisional director is removed by order of the court or by approval of a majority of all members (Section 5033). Such person shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation.

SEC. 24. Section 5231 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5231. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented,

(2) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence,

so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(c) Except as provided in Section 5233, a person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which a corporation, or assets held by it, are dedicated.

SEC. 25. Section 5233 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed.

SEC. 26. Section 5233 is added to the Corporations Code, to read:

5233 (a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors

has a material financial interest. Such a director is an "interested director" for the purpose of this section.

(b) The provisions of this section do not apply to any of the following.

(1) An action of the board fixing the compensation of a director as a director or officer of the corporation.

(2) A transaction which is part of a public or charitable program of the corporation if it. (i) is approved or authorized by the corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public or charitable program.

(3) A transaction, of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of one percent of the gross receipts of the corporation for the preceding fiscal year or one hundred thousand dollars ($100,000).

(c) The Attorney General or, if the Attorney General is joined as an indispensable party, any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h):

(1) The corporation, or a member asserting the right in the name of the corporation pursuant to Section 5710.

(2) A director of the corporation.

(3) An officer of the corporation.

(4) Any person granted relator status by the Attorney General.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if:

(1) The Attorney General, or the court in an action in which the Attorney General is an indispensable party, has approved the transaction before or after it was consummated, or

(2) The person asserting the validity of the transaction sustains the burden of proving that:

(A) The corporation entered into the transaction for its own benefit;

(B) The transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction. Except as provided in paragraph (3) of this subdivision, action by a committee of the board shall not satisfy this paragraph, and

(D) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or the corporation in fact could not

have obtained a more advantageous arrangement with reasonable effort under the circumstances; or

(3) The person asserting the validity of the transaction sustains the burden of proving that:

(A) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in paragraph (2) of this subdivision;

(B) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(C) The board, after determining in good faith that the conditions of subparagraphs (A) and (B) of this paragraph were satisfied, ratified the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

(e) Except as provided in subdivision (f), an action under subdivision (c) must be filed within two years after written notice setting forth the material facts of the transaction and the director's interest in the transaction is filed with the Attorney General in accordance with such regulations, if any, as the Attorney General may adopt or, if no such notice is filed, 10 years after the cause of action has accrued.

(f) In any action for breach of an obligation of the corporation owed to an interested director, where the obligation arises from a self-dealing transaction which has not been approved as provided in subdivision (d), the court may, by way of offset only, make any order authorized by subdivision (h), notwithstanding the expiration of the applicable period specified in subdivision (e).

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction.

(h) If a self-dealing transaction which has not been approved as provided in subdivision (d) has taken place, the interested director or directors shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation, taking into account any benefit received by the corporation and whether the interested director or directors acted in good faith and with intent to further the best interest of the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transaction; and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate The court may award prejudgment interest to the extent allowed in Section 3287 or

3288 of the Civil Code. In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section.

SEC. 26.5. Section 5236 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5236. (a) A corporation shall not make any loan of money or property to or guarantee the obligation of any director or officer, unless approved by the Attorney General; provided, however, that a corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such officer or director, provided that in the absence of such advance, such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent, or any subsidiary.

(b) The provisions of subdivision (a) do not apply to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value.

SEC. 27. Section 5237 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5237. (a) Subject to the provisions of Section 5231, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation for:

(1) The making of any distribution.

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610) and 17 (commencing with Section 6710).

(3) The making of any loan or guaranty contrary to Section 5236.

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (b) of Section 5420;

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment;

(3) Under paragraph (1), (2) or (3) of subdivision (a), by the Attorney General.

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guaranty.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation:

(1) With respect to paragraph (1) of subdivision (a), against the persons who received the distribution.

(2) With respect to paragraph (2) of subdivision (a), against the persons who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guaranty.

Any director sued under this section may file a cross-complaint against the person or persons who are liable to such director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

SEC. 28 Section 5240 of the Corporations Code, as added by Chapter 567 of the Statutues of 1978, is repealed.

SEC 29. Section 5240 is added to the Corporations Code, to read:

5240. (a) This section applies to all assets held by the corporation for investment. Assets which are directly related to the corporation's public or charitable programs are not subject to this section.

(b) Except as provided in subdivision (c), in investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the corporation's investments, the board shall do the following:

(1) Avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the corporation's capital.

(2) Comply with additional standards, if any, imposed by the articles, bylaws or express terms of an instrument or agreement pursuant to which the assets were contributed to the corporation.

(c) No investment violates this section where it conforms to provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to the corporation No investment violates this section or Section 5231 where it conforms to provisions requiring such investment contained in an instrument or agreement pursuant to which the assets were contributed to the corporation.

(d) In carrying out duties under this section, each director shall act as required by subdivision (a) of Section 5231, may rely upon others as permitted by subdivision (b) of Section 5231, and shall have the benefit of subdivision (c) of Section 5231, and the board may delegate its investment powers as permitted by Section 5210.

SEC 30. Section 5241 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5241. Nothing in Section 5240 shall abrogate or restrict the power

of the appropriate court in proper cases to direct or permit a corporation to deviate from the terms of a trust or agreement regarding the making or retention of investments. Notice of such action or proceeding shall be given to the Attorney General who may intervene.

SEC. 31. Section 5310 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members.

(b) In the case of a corporation which has no members:

(1) Any action which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board, any provision of this part or the articles or bylaws to the contrary notwithstanding.

(2) All rights which would otherwise vest in the members shall vest in the directors

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

SEC 32. Section 5311 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

5311. (a) Subject to the articles or bylaws, memberships may be issued by a corporation for no consideration or for such consideration as is determined by the board.

(b) Except as provided in subdivision (d), and subject to Section 5351, memberships issued as provided in this section shall be declared and taken to be fully paid memberships and not liable to any further call nor shall the member be liable for any further payments for such membership.

(c) In the absence of fraud in the transaction, the judgment of the directors as to the value of the consideration for memberships shall be conclusive.

(d) A corporation may issue the whole or any part of its memberships as partly paid and subject to call for the remainder of the consideration to be paid therefor.

SEC. 33 Section 5312 of the Corporations Code, as added by Chapter 567 of the Statutues of 1978, is amended to read:

5312. No person may hold more than one membership, and no fractional memberships may be held, provided, however, that:

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in such manner or under the circumstances prescribed by, the articles or bylaws subject to Section 5612, and

(b) If the articles or bylaws provide for classes of membership and if the articles or bylaws permit a person to be a member of more than one class, a person may hold a membership in one or more classes.

SEC 34. Section 5330 of the Corporations Code, as added by

Chapter 567 of the Statutes of 1978, is amended to read:

5330. A corporation may issue memberships having different rights, privileges, preferences, restrictions or conditions, as authorized by its articles or bylaws.

SEC. 35. Section 5331 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5331. Except as provided in or authorized by the articles or bylaws, all memberships shall have the same rights, privileges, preferences, restrictions and conditions.

SEC. 36. Section 5332 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5332. (a) A corporation may refer to persons associated with it as "members" even though such persons are not members within the meaning of Section 5056; but references to members in this part mean members as defined in Section 5056.

(b) A corporation may benefit, serve, or assist persons who are not members within the meaning of Section 5056 for such consideration, if any, as the board may determine or as is authorized or provided for in the articles or bylaws.

SEC. 36.5. Section 5340 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5340. (a) A member may resign from membership at any time.

(b) This section shall not relieve the resigning member from any obligation for charges incurred, services or benefits actually rendered, dues, assessments or fees, or arising from contract or otherwise, and this section shall not diminish any right of the corporation to enforce any such obligation or obtain damages for its breach.

(c) A membership issued for a period of time shall expire when such period of time has elapsed unless the membership is renewed.

SEC. 37. Section 5341 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5341. (a) No member may be expelled or suspended, and no membership or membership rights may be terminated or suspended, except according to procedures satisfying the requirements of this section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.

(c) A procedure is fair and reasonable when:

(1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of such provisions are sent annually to all the members as required by the articles or bylaws;

(2) It provides the giving of 15 days prior notice of the expulsion, suspension or termination and the reasons therefor; and

(3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the member shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership, including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is successful the court may order any relief, including reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefor. An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful, is not made valid by compliance with this section.

SEC. 37.3. Section 5410 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5410. No corporation shall make any distribution.

SEC. 37.6. Section 5420 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5420 (a) Any person who receives any distribution is liable to the corporation for the amount so received by such person with interest thereon at the legal rate on judgments until paid.

(b) Suit may be brought in the name of a corporation by a creditor, a director, the Attorney General, or, subject to meeting the requirements of Section 5710, a member. In any such action in addition to the remedy provided in subdivision (a), the court may award punitive damages for the benefit of the corporation against any director, officer, member or other person who with intent to defraud the corporation caused, received or aided and abetted in the making of any distribution.

(c) Any person sued under this section may implead all other persons liable under this section and may in the absence of fraud by such moving party compel contribution, either in that action or in an independent action against persons not joined in the action.

(d) Nothing contained in this section affects any liability which

any person may have under Sections 3439 to 3439.12, inclusive, of the Civil Code.

SEC 38 Section 5510 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5510. (a) Meetings of members may be held at a place within or without the state that is stated in or fixed in accordance with the bylaws. If no other place is so stated or fixed, meetings of members shall be held at the principal office of the corporation.

(b) Regular meetings of members shall be held on a date and time, and with the frequency stated in or fixed in accordance with the bylaws, but not less often than every third year. If the bylaws make no provision, then annual meetings shall be held. Directors shall be elected at a regular meeting of members unless they are chosen in some other manner authorized by law. Any other proper business may be transacted at a regular meeting.

(c) If a corporation with members fails to hold the regular meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the formation of the corporation, or after its last regular meeting, or if the corporation fails to hold a written ballot for a period of 60 days after the date designated therefor, then the superior court of the proper county may summarily order the meeting to be held or the ballot to be conducted upon the application of a member or the Attorney General, after notice to the corporation giving it an opportunity to be heard.

(d) The votes represented, either in person or by proxy, at a meeting called or by written ballot ordered pursuant to subdivision (c), and entitled to be cast on the business to be transacted shall constitute a quorum, notwithstanding any provision of the articles or bylaws or in this part to the contrary. The court may issue such orders as may be appropriate including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice of the meeting.

(e) Special meetings of members may be called by the board, the chairman of the board, the president, or such other persons, if any, as are specified in the bylaws. In addition, special meetings of members for the purpose of removal of directors and election of their replacements may be called by 5 percent or more of the members.

SEC 39 Section 5511 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5511 (a) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote thereat, provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, that notice shall be given not less than 20 days before the meeting Subject to subdivision (f), and subdivision (b)

of Section 5512, such notice shall state the place, date and time of the meeting and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the regular meeting, those matters which the board, at the time the notice is given, intends to present for action by the members, but, except as provided in subdivision (b) of Section 5512, any proper matter may be presented at the meeting for such action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is given to members.

(b) Notice of a members' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to the member at the address of such member appearing on the books of the corporation or given by the member to the corporation for purpose of notice; or if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. An affidavit of giving of any notice or report in accordance with the provisions of this part, executed by the secretary, assistant secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to a member at the address of such member appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the member at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the member upon written demand of the member at the principal office of the corporation for a period of one year from the date of the giving of the notice or report to all other members.

(c) Upon request in writing to the chairman of the board, president, vice president or secretary by any person (other than the board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board, not less than 35 nor more than 90 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote and the form of notice.

(d) When a members' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting

if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

(e) The transactions of any meeting of members, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f).

(f) Any approval of the members required under Section 5222, 5224, 5812, or 6610, other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(g) A court may find that notice not given in conformity with this section is still valid, if it was given in a fair and reasonable manner.

SEC. 40. Section 5512 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5512. (a) A majority of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members, unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the

only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 5511.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

SEC. 40.5. Section 5513 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5513. (a) Subject to subdivision (e), and unless otherwise provided in the articles, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation.

(b) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 5511, and Section 5514. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

(d) Unless otherwise provided in the articles or bylaws, a written ballot may not be revoked.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 5616

SEC. 41. Section 5514 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read.

5514. (a) Any form of proxy or written ballot distributed to 10 or more members of a corporation with 100 or more members shall

afford an opportunity on the proxy or form of written ballot to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the proxy is solicited or by such written ballot, and shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter the vote shall be cast in accordance therewith.

(b) In any election of directors, any form of proxy or written ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted either for or against the election of a director.

(c) Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging any proxy at a meeting or written ballot and the superior court may compel compliance therewith at the suit of any member

SEC. 41 2 Section 5515 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5515 (a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, delegate, member or the Attorney General, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates, or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section; provided, however, that an order under this section may also

authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws and this part.

SEC. 41.4. Section 5521 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5521. Except for directors who are elected as authorized by Section 5152, or Section 5153, and except as provided in Section 5522, any person who is qualified to be elected to the board of directors of a corporation with 500 or more members may be nominated:

(a) By any method authorized by the bylaws, or if no method is set forth in the bylaws by any method authorized by the board;

(b) By petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by members representing the following number of votes:

Number of Votes Eligible to be Cast for Director Disregarding Any Provision for Cumulative Voting	*Number of Votes*
Under 5,000	2 percent of voting power
5,000 or more	one-twentieth of 1 percent of voting power but not less than 100, nor more than 500.

(c) If there is a meeting to elect directors, by any member present at the meeting in person or by proxy if proxies are permitted.

SEC. 41.6. Section 5522 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5522. (a) The provisions of this section shall apply to any election of a director or directors by members of a corporation with 5,000 or more members except for an election authorized by Section 5152 or Section 5153.

(b) The corporation's articles or bylaws shall set a date for the close of nominations for the board. The date shall not be less than 50 nor more than 120 days before the day directors are to be elected. No nominations for the board can be made after the date set for the close of nominations

(c) If more people are nominated for the board than can be elected, the election shall take place by means of a procedure which allows all nominees a reasonable opportunity to solicit votes and all members a reasonable opportunity to choose among the nominees.

(d) If after the close of nominations the number of people nominated for the board is not more than the number of directors to be elected, the corporation may without further action declare that those nominated and qualified to be elected have been elected.

SEC. 41.8. Section 5527 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5527. An action challenging the validity of any election, appointment or removal of a director or directors must be commenced within nine months after the election, appointment or removal. If no such action is commenced, in the absence of fraud, any election, appointment or removal of a director is conclusively presumed valid nine months thereafter if the only defect in the election, appointment or removal is the failure to give notice as provided in this part or in the corporation's articles or bylaws.

SEC. 42. Section 5610 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5610. Except as provided in a corporation's articles or bylaws or Section 5616, each member shall be entitled to one vote on each matter submitted to a vote of the members. Single memberships in which two or more persons have an indivisible interest shall be voted as provided in Section 5612.

SEC. 43. Section 5611 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5611. (a) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to notice of any meeting of members. Such record date shall not be more than 60 nor less than 10 days before the date of the meeting. If no record date is fixed, members at the close of business on the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held are entitled to notice of a meeting of members. A determination of members entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the board fixes a new record date for the adjourned meeting.

(b) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to vote at a meeting of members. Such record date shall not be more than 60 days before the date of the meeting Such record date shall also apply in the case of an adjournment of the meeting unless the board fixes a new record date for the adjourned meeting. If no record date is fixed, members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of members or, in the case of an adjourned meeting, members on the day of the adjourned meeting who are otherwise eligible to vote are entitled to vote at the adjourned meeting of members.

(c) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the

purpose of determining the members entitled to cast written ballots (Section 5513). Such record date shall not be more than 60 days before the day on which the first written ballot is mailed or solicited. If no record date is fixed, members on the day the first written ballot is mailed or solicited who are otherwise eligible to vote are entitled to cast written ballots.

(d) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. Such record date shall not be more than 60 days prior to such other action. If no record date is fixed, members at the close of business on the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later, are entitled to exercise such rights.

SEC 44 Section 5613 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5613 (a) Every person entitled to vote a membership may authorize another person or persons to act by proxy with respect to such membership, except that this right may be limited or withdrawn by the articles or bylaws, subject to subdivision (e). Any proxy purported to be executed in accordance with the provisions of this part shall be presumptively valid.

(b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

(c) A proxy is not revoked by the death or incapacity of the maker or the termination of a membership as a result thereof unless, before the vote is counted, written notice of such death or incapacity is received by the corporation.

(d) The proxy of a member may not be irrevocable

(e) Subdivision (a) notwithstanding, no amendment of the articles or bylaws repealing, restricting, creating or expanding proxy rights may be adopted without approval by the members (Section 5034)

(f) Anything to the contrary notwithstanding, any proxy covering matters requiring a vote of the members pursuant to Section 5222, Section 5224, subdivision (e) of this section, Section 5812, paragraph (2) of subdivision (a) of Section 5911, Section 6012, subdivision (a)

of Section 6015, or Section 6610 is not valid as to such matters unless it sets forth the general nature of the matter to be voted on, or, in the event of a vote pursuant to Section 5220, unless the proxy lists those nominated at the time the notice of the vote is given to members.

SEC. 45. Section 5614 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5614. A voting agreement or voting trust agreement entered into by a member or members of a corporation shall not be enforced.

SEC. 46. Section 5616 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5616. (a) If the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of the members (Section 5034), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal.

(b) No member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and a member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given such notice, all members may cumulate their votes for candidates in nomination.

(c) In any election of directors, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes.

(d) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

SEC. 47. Section 5810 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5810. (a) By complying with the provisions of this chapter, a corporation may amend its articles from time to time, in any and as many respects as may be desired, so long as its articles as amended contain only such provisions as it would be lawful to insert in original articles filed at the time of the filing of the amendment or as authorized by Section 5813.5 and, if a change in the rights of members or an exchange, reclassification or cancellation of memberships is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation. It is the intent of the Legislature in adopting this section to exercise to the fullest extent the reserve power of the state over corporations and

to authorize any amendment of the articles covered by the preceding sentence regardless of whether any provision contained in the amendment was permissible at the time of the original incorporation of the corporation.

(b) A corporation shall not amend its articles to alter any statement which may appear in the original articles of the names and addresses of the first directors, nor the name and address of the initial agent, except to correct an error in the statement or to delete either after the corporation has filed a statement under Section 6210.

SEC. 48 Section 5811 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5811. Except as provided in Section 5813 5, any amendment of the articles may be adopted by a writing signed by a majority of the incorporators, so long as·

(a) No directors were named in the original articles;

(b) No directors have been elected; and

(c) The corporation has no members

SEC 49 Section 5812 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5812 (a) Except as provided in this section or Section 5813.5, amendments may be adopted if approved by the board and approved by the members (Section 5034) and approved by such other person or persons, if any, as required by the articles The approval by the members or other person or persons may be before or after the approval by the board

(b) Notwithstanding subdivision (a), the following amendments may be adopted by approval of the board alone·

(1) An amendment extending the corporate existence or making the corporate existence perpetual, if the corporation was organized prior to August 14, 1929.

(2) An amendment deleting the names and addresses of the first directors or the name and address of the initial agent

(3) Any amendment, at a time the corporation has no members, provided, however, that if the articles require approval by any person for an amendment, that an amendment may not be adopted without such approval

(4) An amendment adopted pursuant to Section 9913

(c) Whenever the articles require for corporate action the approval of a particular class of members or of a larger proportion of, or all of, the votes of any class, or of a larger proportion of, or all of, the directors, than is otherwise required by this part, the provision in the articles requiring such greater vote shall not be altered, amended or repealed except by such class or such greater vote, unless otherwise provided in the articles

SEC 50 Section 5813 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed

SEC 51 Section 5813 is added to the Corporations Code, to read

5813 An amendment must also be approved by the members (Section 5034) of a class, whether or not such class is entitled to vote

thereon by the provisions of the articles, if the amendment would materially and adversely affect the rights of that class as to voting or transfer in a manner different than such action affects another class.

SEC. 52. Section 5813.5 is added to the Corporations Code, to read.

5813.5. (a) A public benefit corporation may amend its articles to change its status to that of a mutual benefit corporation, a religious corporation or a business corporation by complying with the provisions of this section and the other sections of this chapter.

(b) If the public benefit corporation has any assets, an amendment to change its status to a mutual benefit or business corporation shall be approved in advance in writing by the Attorney General. If the public benefit corporation has no assets, the Attorney General shall be given a copy of the amendment at least 20 days before such amendment is filed.

(c) Amended articles authorized by this section shall include the provisions which would have been required (other than the name of the initial agent for service of process if a statment has been filed pursuant to Section 6210), and may in addition only include those provisions which would have been permitted, in original articles filed by the type of corporation (mutual benefit, religious or business) to which the public benefit corporation is changing its status.

(d) In the case of a change of status to a mutual benefit corporation or business corporation, if the Franchise Tax Board has issued a determination exempting the corporation from tax as provided in Section 23701 of the Revenue and Taxation Code, the corporation shall be subject to Section 23221 of the Revenue and Taxation Code upon filing the certificate of amendment.

SEC. 53. Section 5814 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5814 (a) Except for amendments adopted by the incorporators pursuant to Section 5811, upon adoption of an amendment, the corporation shall file a certificate of amendment, which shall consist of an officers' certificate stating:

(1) The wording of the amendment or amended articles in accordance with Section 5816;

(2) That the amendment has been approved by the board;

(3) If the amendment is one for which the approval of the members (Section 5034) is required, that the amendment was approved by the required vote of members; and

(4) If the amendment is one which may be adopted with approval by the board alone, a statement of the facts entitling the board alone to adopt the amendment.

(5) If the amendment is one for which the approval of a person or persons other than the incorporators, directors, or members is required, that the approval of such person or persons has been obtained

(b) In the event of an amendment of the articles pursuant to a

merger, the filing of the officers' certificate and agreement pursuant to Section 6014 shall be in lieu of any filing required under this chapter.

SEC. 54. Section 5815 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5815. In the case of amendments adopted by the incorporators under Section 5811, the corporation shall file a certificate of amendment signed and verified by a majority of the incorporators which shall state that the signers thereof constitute at least a majority of the incorporators, that directors were not named in the original articles and have not been elected, that the corporation has no members and that they adopt the amendment or amendments therein set forth

SEC. 55. Section 5817 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5817. Upon the filing of the certificate of amendment, the articles shall be amended in accordance with the certificate and any change, reclassification or cancellation of memberships shall be effected, and a copy of the certificate, certified by the Secretary of State, is prima facie evidence of the performance of the conditions necessary to the adoption of the amendment. A corporation shall furnish an additional copy of the certificate of amendment to the Secretary of State who shall forward that copy to the Attorney General.

SEC. 56. Section 5911 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

5911. (a) Subject to the provisions of Section 5142, a corporation may sell, lease, convey, exchange, transfer or otherwise dispose of all or substantially all of its assets when the principal terms are:

(1) Approved by the board; and

(2) Unless the transaction is in the usual and regular course of its activities, approved by the members (Section 5034) and by any other person or persons whose approval is required by the articles, either before or after approval by the board and before or after the transaction.

(b) Notwithstanding approval by the members (Section 5034) or such other person, the board may abandon the proposed transaction without further action by the members, subject to the contractual rights, if any, of third parties.

(c) Subject to the provisions of Section 5142, such sale, lease, conveyance, exchange, transfer or other disposition may be made upon such terms and conditions and for such consideration as the board may deem in the best interests of the corporation The consideration may be money, property, or securities of any domestic or foreign corporation

SEC 57. Section 6011 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

6011 The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons may be

parties to the agreement of merger. The agreement shall state:

(a) The terms and conditions of the merger;

(b) The amendments, subject to Sections 5810 and 5816, to the articles of the surviving corporation to be effected by the merger, if any, if any amendment changes the name of the surviving corporation, the new name may be the same as or similar to the name of a disappearing corporation, subject to subdivision (b) of Section 5122;

(c) The amendments to the bylaws of the surviving corporation to be effected by the merger, if any;

(d) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation;

(e) The manner, if any, of converting memberships of the constituent corporations into memberships of the surviving corporation; and

(f) Such other details or provisions as are desired, if any.

SEC. 58. Section 6012 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6012. The principal terms of the merger shall be approved by the board and by the members (Section 5034) of each class which has different rights upon merger of each corporation which desires to merge and by each other person or persons whose approval of an amendment of articles is required by the articles; and the approval by the members (Section 5034) or such other person or persons required by this section may be given before or after the approval by the board.

SEC. 59. Section 6110 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6110. Any proceeding, initiated with respect to a corporation, under any applicable statute of the United States, as now existing or hereafter enacted, relating to reorganizations or arrangements of corporations, shall be governed by the provisions of Chapter 14 (commencing with Section 1400) of Division 1 of Title 1, and for this purpose the reference in Chapter 14 to "shareholders" shall be deemed to be a reference to members and the reference to "this division" shall be deemed to be a reference to this part.

SEC. 59.5. Section 6210 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6210. (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; (2) the street address of its principal office, in this state, if any

(b) The statement required by subdivision (a) shall also designate, as the agent of such corporation for the purpose of service of process, a natural person residing in this state or any domestic or

foreign or foreign business corporation which has complied with Section 1505, 6213, or 8213 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth such person's complete business or residence address If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section

SEC 60 Section 6214 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read.

6214 Upon request of an assessor, a corporation owning, claiming, possessing or controlling property in this state subject to local assessment shall make available at the corporation's principal office in California or at a place mutually acceptable to the assessor and the corporation a true copy of business records relevant to the amount, cost and value of all property that it owns, claims, possesses or controls within the county.

SEC. 61 Section 6321 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

6321 (a) Except as provided in subdivision (c), (d), or (f), the board shall cause an annual report to be sent to the members not later than 120 days after the close of the corporation's fiscal year Such report shall contain in appropriate detail the following

(1) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year

(2) The principal changes in assets and liabilities, including trust

funds, during the fiscal year.

(3) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year.

(4) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.

(5) Any information required by Section 6322.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

(c) This section does not apply to corporations which do not have more than 100 members or ten thousand dollars ($10,000) in assets at any time during the fiscal year.

(d) Where a corporation has provided, pursuant to Section 5510, for regular meetings of members less often than annually, then the report required by subdivision (a) need be made to members only with the frequency with which regular membership meetings are required, unless the articles or bylaws require a report more often.

(e) Subdivisions (c) and (d) notwithstanding, a report with the information required by subdivision (a) shall be furnished annually to:

(1) All directors of the corporation; and

(2) Any member who requests it in writing.

(f) A corporation which in writing solicits contributions from 500 or more persons need not send the report otherwise required by subdivision (a) if it does all of the following:

(i) Includes with any written material used to solicit contributions a written statement that its latest annual report will be mailed upon request and that such request may be sent to the corporation at a name and address which is set forth in the statement.

The term "annual report" as used in this subdivision refers to the report required by subdivision (a).

(ii) Promptly mails a copy of its latest annual report to any person who requests a copy thereof; and

(iii) Causes its annual report to be published not later than 120 days after the close of its fiscal year in a newspaper of general circulation in the county in which its principal office is located.

SEC 62. Section 6331 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6331. (a) Where the corporation, in good faith, and with a substantial basis, believes that the membership list, demanded under Section 6330 by the authorized number (Section 5036), will be used for a purpose not reasonably related to the interests as members of the person or persons making the demand (hereinafter called the requesting parties) as members or provides a reasonable alternative pursuant to subdivision (c) of Section 6330, it may petition the superior court of the proper county for an order setting aside the demand.

(b) Except as provided in subdivision (c), a petition for an order to show cause why a protective order pursuant to subdivision (d) should not issue shall be filed within 10 business days after the demand by the authorized number under Section 6330 or receipt of a written rejection by the authorized number of an offer made pursuant to subdivision (c) of Section 6330, whichever is later. The petition shall be accompanied by an application for a hearing on the petition. Upon the filing of the petition, the court shall issue a protective order staying production of the list demanded until the hearing on the order to show cause The court shall set the hearing on the order to show cause not more than 20 days from the date of the filing of the petition. The order to show cause shall be granted unless the court finds that there is no reasonable probability that the corporation will make the showing required under subdivision (f).

(c) A corporation may file a petition under this section more than 10 business days after the demand or rejection under Section 6330, but only upon a showing the delay was caused by excusable neglect. In no event, however, may any petition under this section be considered if filed more than 30 days after the requesting parties' demand or rejection, whichever is later.

(d) Upon the return day of the order to show cause, the court may issue a protective order staying production of the list demanded until final adjudication of the petition filed pursuant to this section. No protective order shall issue under this subdivision unless the court finds that the rights of the requesting parties can reasonably be preserved and that the corporation is likely to make the showing required by subdivision (f) or the court is likely to issue a protective order pursuant to subdivision (g)

(e) If the corporation fails to file a petition within the time allowed by subdivision (b) or (c), whichever is applicable, or fails to obtain a protective order under subdivision (d), then the corporation shall comply with the demand, and no further action may be brought by the corporation under this section.

(f) The court shall issue the final order setting aside the demand only if the corporation proves.

(1) That there is a reasonable probability that the requesting parties will permit use of the membership list for a purpose unrelated to their interests as members; or

(2) That the method offered by the corporation is a reasonable alternative in that it reasonably achieves the proper purpose set forth in the requesting parties' demand and that the corporation intends and is able to effectuate the reasonable alternative

(g) In the final order, the court may, in its discretion, order an alternative mechanism for achieving the proper purposes of the requesting parties, or impose just and proper conditions upon the use of the membership list which reasonably assures compliance with Sections 6330 and 6338

(h) The court shall award reasonable costs and expenses, including reasonable attorneys' fees, to requesting parties who

successfully oppose any petition or application filed pursuant to this section.

(i) Where the corporation has neither, within the time allowed, complied with a demand by the authorized number (Section 5036) under Section 6330, nor obtained a protective order staying production of the list, or a final order setting aside the demand, which is then in effect, the requesting parties may petition the superior court of the proper county for a writ of mandamus pursuant to Section 1085 of the Code of Civil Procedure compelling the corporation to comply with the demand. At the hearing, the court shall hear the parties summarily, by affidavit or otherwise, and shall issue a peremptory writ of mandamus unless it appears that the demand was not made by an authorized number (Section 5036), that the demand has been complied with, that the corporation, pursuant to subdivision (c) of Section 6330, made an offer which was not rejected in writing within a reasonable time, or that a protective or final order properly issued under subdivision (d), (f) or (g) is then in effect No inquiry may be made in such proceeding into the use for which the authorized number seek the list. The court shall award reasonable costs and expenses, including reasonable attorneys' fees, to persons granted an order under this subdivision.

(j) Nothing in this section shall be construed to limit the right of the corporation to obtain damages for any misuse of a membership list obtained under Section 6330, or otherwise, or to obtain injunctive relief necessary to restrain misuse of a member list. A corporation shall be entitled to recover reasonable costs and expenses, including reasonable attorneys' fees, incurred in successfully bringing any such action

SEC 63 Section 6335 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

6335 Where the proper purpose of the person or persons making a demand pursuant to Section 6330 is frustrated by (1) any delay by the corporation in complying with a demand under Section 6330 beyond the time limits specified therein, or (2) any delay caused by the filing of a petition under Section 6331 or Section 6332, or (3) any delay caused by the alternative proposed under subdivision (c) of Section 6330, the person or persons properly making the demand shall have, in the discretion of the court, a right to obtain from the superior court an order postponing any members' meeting previously noticed for a period equal to the period of such delay. The members may obtain such an order in a proceeding brought pursuant to Section 6331 upon the filing of a verified complaint in the proper county and after a hearing, notice of which shall be given to such persons and in such manner as the court may direct. Such right shall be in addition to any other legal or equitable remedies to which the member may be entitled

SEC 64 Section 6336 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read.

6336 (a) Upon refusal of a lawful demand for inspection under

this chapter, or a lawful demand pursuant to Section 6330 or Section 6333, the superior court of the proper county, or the county where the books or records in question are kept, may enforce the demand or right of inspection with just and proper conditions or may, for good cause shown, appoint one or more competent inspectors or independent accountants to audit the financial statements kept in this state and investigate the property, funds and affairs of any corporation and of any subsidiary corporation thereof, domestic or foreign, keeping records in this state and to report thereon in such manner as the court may direct.

(b) All officers and agents of the corporation shall produce to the inspectors or accountants so appointed all books and documents in their custody or power, under penalty of punishment for contempt of court

(c) All expenses of the investigation or audit shall be defrayed by the applicant unless the court orders them to be paid or shared by the corporation.

SEC. 65 Section 6510 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6510 (a) A complaint for involuntary dissolution of a corporation on any one or more of the grounds specified in subdivision (b) may be filed in the superior court of the proper county by any of the following persons:

(1) One-half or more of the directors in office.

(2) A person or persons holding or authorized in writing by persons holding not less than 33⅓ percent of the voting power exclusive of memberships held by persons who have personally participated in any of the transactions enumerated in paragraph (5) of subdivision (b).

(3) Any member if the ground for dissolution is that the period for which the corporation was formed has terminated without extension thereof.

(4) Any other person expressly authorized to do so in the articles.

(5) The Attorney General.

(6) The head organization under whose authority the corporation was created, where the corporation's articles include the provision authorized by subdivision (a), paragraph (2), clause (i), of Section 5132

(b) The grounds for involuntary dissolution are that.

(1) The corporation has abandoned its activity for more than one year

(2) The corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property will be impaired or lost or its activities impaired and the members are so divided into factions that they cannot elect a board consisting of an uneven number.

(3) There is internal dissension and two or more factions of members in the corporation are so deadlocked that its activities can

no longer be conducted with advantage.

(4) When during any four-year period or when all voting power has been exercised at two consecutive meetings or in two written ballots for the election of directors, whichever period is shorter, the members have failed to elect successors to directors whose terms have expired or would have expired upon election of their successors.

(5) Those in control of the corporation have been guilty of or have knowingly countenanced persistent and pervasive fraud, mismanagement or abuse of authority or the corporation's property is being misapplied or wasted by its directors or officers.

(6) Liquidation is reasonably necessary as the corporation is failing and has continuously failed to carry out its purposes.

(7) The period for which the corporation was formed has terminated without extension of such period.

(8) The corporation is required to dissolve under the terms of any article provision adopted pursuant to subdivision (a), paragraph (2), clause (i), of Section 5132.

(c) At any time prior to the trial of the action any creditor or the authorized number (Section 5036) of members may intervene therein.

(d) In any action brought pursuant to subdivision (a), the Attorney General shall be an indispensable party.

SEC. 66. Section 6513 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6513. If, at the time of the filing of a complaint for involuntary dissolution or at any time thereafter, the court has reasonable grounds to believe that unless a receiver of the corporation is appointed the interests of the corporation or the public or charitable purpose of the corporation will suffer pending the hearing and determination of the complaint, upon the application of the plaintiff, and after a hearing upon such notice to the corporation as the court may direct and upon the giving of security pursuant to Sections 566 and 567 of the Code of Civil Procedure (except that the Attorney General shall not be required to give security), the court may appoint a receiver to take over and manage the affairs of the corporation and to preserve its property pending the hearing and determination of the complaint for dissolution.

SEC 67. Section 6610 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6610. (a) Any corporation may elect voluntarily to wind up and dissolve (1) by the vote of a majority of all the members (Section 5033) or (2) by approval of the board and approval of the members (Section 5034)

(b) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve:

(1) A corporation which has been adjudicated a bankrupt.

(2) A corporation which has disposed of all of its assets and has not

conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation.

(3) A corporation which has no members.

(4) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subdivision (a), paragraph (2), clause (i), of Section 5132.

SEC. 68. Section 6611 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6611. (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed and a copy thereof filed with the Attorney General.

(b) The certificate shall be an officer's certificate or shall be signed and verified by at least a majority of the directors then in office or by one or more members authorized to do so by a vote of a majority of all members (Section 5033) and shall set forth:

(1) That the corporation has elected to wind up and dissolve.

(2) If the election was made by the vote of members alone, the number of votes for the election and that the election was made by a majority of all members (Section 5033).

(3) If the election was made by the board and members pursuant to paragraph (2) of subdivision (a) of Section 6610, the certificate shall so state.

(4) If the certificate is executed by a member or members, that the subscribing person or persons were authorized to execute the certificate by a majority of all members (Section 5033).

(5) If the election was made by the board pursuant to subdivision (b) of Section 6610, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in such subdivision.

SEC. 69. Section 6612 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6612 (a) A voluntary election to wind up and dissolve may be revoked prior to distribution of any assets: (1) if the election was made pursuant to paragraph (1) of subdivision (a) of Section 6610, by the vote of a majority of all members (Section 5033); or (2) if the election was made pursuant to paragraph (2) of subdivision (a) of Section 6610, by the approval of the board and the members (Section 5034); or (3) if the election was by the board pursuant to subdivision (b) of Section 6610, by approval of the board Thereupon a certificate evidencing the revocation shall be signed, verified and filed in the manner prescribed by Section 6611 and a copy thereof filed with the Attorney General.

(b) The certificate shall set forth:

(1) That the corporation has revoked its election to wind up and dissolve

(2) That no assets have been distributed pursuant to the election.

(3) If the revocation was made by the vote of members alone, the number of votes for the revocation and that the revocation was made

by a majority of all members (Section 5033).

(4) If the revocation was made by the board and members pursuant to paragraph (2) of subdivision (a) of Section 6612, the certificate shall so state

(5) If the revocation was made by the board alone, the certificate shall so state

SEC 70 Section 6710 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

6710. The powers and duties of the directors (or other persons appointed by the court pursuant to Section 6515) and officers after commencement of a dissolution proceeding include, but are not limited to, the following acts in the name and on behalf of the corporation.

(a) To elect officers and to employ agents and attorneys to liquidate or wind up its affairs.

(b) To continue the conduct of the affairs of the corporation insofar as necessary for the disposal or winding up thereof.

(c) To carry out contracts and collect, pay, compromise and settle debts and claims for or against the corporation

(d) To defend suits brought against the corporation.

(e) To sue, in the name of the corporation, for all sums due or owing to the corporation or to recover any of its property

(f) To collect any amounts remaining unpaid on memberships or to recover unlawful distributions.

(g) Subject to the provisions of Section 5142, to sell at public or private sale, exchange, convey or otherwise dispose of all or any part of the assets of the corporation for an amount deemed reasonable by the board without compliance with the provisions of Section 5911, and to execute bills of sale and deeds of conveyance in the name of the corporation.

(h) In general, to make contracts and to do any and all things in the name of the corporation which may be proper or convenient for the purposes of winding up, settling and liquidating the affairs of the corporation

SEC 71 Section 6714 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

6714. The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, has been adequately provided for if the payment has been provided for by either of the following means:

(a) Payment thereof has been assumed or guaranteed in good faith by one or more financially responsible persons or by the United States government or any agency thereof, and the provision (including the financial responsibility of such persons) was determined in good faith and with reasonable care by the board to be adequate at the time of any distribution of the assets by the board pursuant to this chapter

(b) The amount of the debt or liability has been deposited as provided in Section 6718

This section does not prescribe the exclusive means of making adequate provision for debts and liabilities.

SEC 72 Section 6721 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

6721. (a) In all cases where a corporation has been dissolved, any person to whom assets were distributed upon dissolution may be sued in the corporate name upon any cause of action against the corporation arising prior to its dissolution. Notice of such action shall be given to the Attorney General who may intervene. This section is procedural in nature and is not intended to determine liability.

(b) Summons or other process against such a corporation may be served by delivering a copy thereof to an officer, director or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution. If none of such persons can be found with due diligence and it is so shown by affidavit to the satisfaction of the court, then the court may make an order that summons or other process be served upon the dissolved corporation by personally delivering a copy thereof, together with a copy of the order, to the Secretary of State or an assistant or deputy secretary of state Service in this manner is deemed complete on the 10th day after the delivery of process to the Secretary of State. A copy of any summons or other process shall be served on the Attorney General.

(c) Every such corporation shall survive and continue to exist indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and every person having an interest in such corporation, to the extent of their interest therein, and such action shall have the same force and effect as an action brought under the provisions of Sections 410.50 and 410.60 of the Code of Civil Procedure. Service of summons or other process in any such action may be made as provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure or as provided in subdivision (b).

(d) Upon receipt of such process and the fee therefor, the Secretary of State forthwith shall give notice to the corporation as provided in Section 1702.

SEC 72.3. Section 7111 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7111. Subject to any other provision of law of this state applying to the particular class of corporation or line of activity, a corporation may be formed under this part for any lawful purpose which does not contemplate any distribution prohibited by Chapter 4 (commencing with Section 7410); provided that a corporation all of the assets of which are irrevocably dedicated to charitable, religious, or public purposes and which as a matter of law or according to its articles or bylaws must, upon dissolution, distribute its assets to a person or persons carrying on a charitable, religious, or public purpose or purposes may not be formed under this part

SEC. 72.6 Section 7121 of the Corporations Code, as added by

Chapter 567 of the Statutes of 1978, is amended to read:

7121. (a) In the case of an existing unincorporated association, the association may change its status to that of a corporation upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) In addition to the matters required to be set forth in the articles pursuant to Section 7130, the articles in the case of an incorporation authorized by subdivision (a) shall set forth that an existing unincorporated association, stating its name, is being incorporated by the filing of the articles.

(c) The articles filed pursuant to this section shall be accompanied by an affidavit of any two officers or governing board members of the association stating that the incorporation of the association by means of the articles to which the affidavit is attached has been approved by the association in accordance with its rules and procedures.

(d) Upon the change of status of an unincorporated association to a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association who had any voting rights of the type referred to in Section 5056 become members of the corporation.

(e) The filing for record in the office of the county recorder of any county in this state in which any of the real property of the association is located, of a copy of the articles of incorporation filed pursuant to this section, certified by the Secretary of State, shall evidence record ownership in the corporation of all interests of the association in and to the real property located in that county.

(f) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place.

(g) If a corporation is organized by a person who is or was an officer, director or member of an unincorporated association and such corporation is not organized pursuant to subdivision (a), the unincorporated association may continue to use its name and the corporation may not use a name which is the same as or similar to the name of the unincorporated association.

SEC. 73. Section 7130 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7130. The articles of incorporation of a corporation formed under this part shall set forth.

(a) The name of the corporation.

(b) The following statement:

"This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law "

[The articles may include a further description of the

corporation's purposes.]

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 8210.

SEC. 74. Section 7132 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) A provision conferring upon the holders of any evidences of indebtedness, issued or to be issued by a corporation the right to vote in the election of directors and on any other matters on which members may vote under this part even if the corporation does not have members.

(3) A provision conferring upon members the right to determine the consideration for which memberships shall be issued.

(4) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (4), clause (i), of this section, or, in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710) shall be distributed to the head organization.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) Provisions concerning the transfer of memberships, in accordance with Section 7320.

(3) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(4) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote.

(5) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted

by this part to be stated in the bylaws.

SEC. 75. Section 7140 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7140. Subject to any limitations contained in the articles or bylaws and to compliance with other provisions of this division and any other applicable laws, a corporation, in carrying out its activities, shall have all of the powers of a natural person, including, without limitation, the power to:

(a) Adopt, use, and at will alter a corporate seal, but failure to affix a seal does not affect the validity of any instrument.

(b) Adopt, amend, and repeal bylaws.

(c) Qualify to conduct its activities in any other state, territory, dependency or foreign country.

(d) Issue, purchase, redeem, receive, take or otherwise acquire, own, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own memberships, bonds, debentures, notes and debt securities.

(e) Pay pensions, and establish and carry out pension, deferred compensation, saving, thrift and other retirement, incentive and benefit plans, trusts and provisions for any or all of its directors, officers, employees, and persons providing services to it or any of its subsidiary or related or associated corporations, and to indemnify and purchase and maintain insurance on behalf of any fiduciary of such plans, trusts, or provisions.

(f) Issue certificates evidencing membership in accordance with the provisions of Section 7313 and issue identity cards.

(g) Levy dues, assessments, and admission and transfer fees.

(h) Make donations for the public welfare or for community funds, hospital, charitable, educational, scientific, civic, religious or similar purposes.

(i) Assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or other encumbrance of all or any part of its property and income.

(j) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others

(k) Act as trustee under any trust incidental to the principal objects of the corporation, and receive, hold, administer, exchange, and expend funds and property subject to such trust.

(*l*) Carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage.

SEC 76 Section 7141 of the Corporations Code, as added by Chapter 567 of the Stautes of 1978, is amended to read:

7141 Subject to Section 7142:

(a) No limitation upon the activities, purposes, or powers of the

corporation or upon the powers of the members, officers, or directors, or the manner of exercise of such powers, contained in or implied by the articles or by Chapters 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710) shall be asserted as between the corporation or member, officer or director and any third person, except in a proceeding: (1) by a member or the state to enjoin the doing or continuation of unauthorized activities by the corporation or its officers, or both, in cases where third parties have not acquired rights thereby, (2) to dissolve the corporation, or (3) by the corporation or by a member suing in a representative suit against the officers or directors of the corporation for violation of their authority.

(b) Any contract or conveyance made in the name of a corporation which is authorized or ratified by the board, or is done within the scope of authority, actual or apparent, conferred by the board or within the agency power of the officer executing it, except as the board's authority is limited by law other than this part, binds the corporation, and the corporation acquires rights thereunder whether the contract is executed or wholly or in part executory.

SEC. 76.5. Section 7142 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7142. (a) Notwithstanding Section 7141, in the case of a corporation holding assets in charitable trust, any of the following may bring an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of the charitable trust:

(1) The corporation, or a member in the name of the corporation pursuant to Section 7710.

(2) An officer of the corporation.

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in the assets subject to such charitable trust.

(5) The Attorney General, or any person granted relator status by the Attorney General.

The Attorney General shall be given notice of any action brought by the persons specified in paragraphs (1) through (4), and may intervene.

(b) In an action under this section, the court may not rescind or enjoin the performance of a contract unless:

(1) All of the parties to the contract are parties to the action; or

(2) No party to the contract has, in good faith, and without actual notice of the trust restriction, parted with value, under the contract or in reliance upon it; and

(3) It is equitable to do so.

SEC. 77. Section 7150 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed.

SEC 78 Section 7150 is added to the Corporations Code, to read·

7150. (a) Except as provided in subdivision (c) and Sections 7151, 7220, 7224, 7512, 7613, and 7615, bylaws may be adopted, amended or repealed by the board unless the action would:

(1) Materially and adversely affect the rights of members as to voting, dissolution, redemption, or transfer;

(2) Increase or decrease the number of members authorized in total or for any class;

(3) Effect an exchange, reclassification or cancellation of all or part of the memberships; or

(4) Authorize a new class of membership.

(b) Bylaws may be adopted, amended or repealed by approval of the members (Section 5034); provided, however, that such adoption, amendment or repeal also requires approval by the members of a class if such action would:

(1) Materially and adversely affect the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption, or transfer in a manner different than such action affects another class;

(2) Materially and adversely affect such class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class;

(3) Increase or decrease the number of memberships authorized for such class;

(4) Increase the number of memberships authorized for another class;

(5) Effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or

(6) Authorize a new class of memberships.

(c) The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 7151.

SEC. 79. Section 7151 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7151. (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 7151. The number or minimum number of directors may be one or more.

(b) Once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation, including but not limited to:

(1) Any provision referred to in subdivision (c) of Section 7132.

(2) The time, place and manner of calling, conducting and giving notice of members', directors' and committee meetings, or of

conducting mail ballots.

(3) The qualifications, duties and compensation of directors; the time of their election; and the requirements of a quorum for directors' and committee meetings.

(4) The appointment of committees, composed of directors or nondirectors or both, by the board or any officer and the authority of any such committees.

(5) The appointment, duties, compensation and tenure of officers.

(6) The mode of determination of members of record.

(7) The making of reports and financial statements to members.

(8) Setting, imposing and collecting dues, assessments, and admission and transfer fees.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members, consistent with the requirements of Section 7341.

(e) The bylaws may require, for any or all corporate actions (except as provided in Section 7222, subdivision (c) of Section 7615, and Section 8610) the vote of a larger proportion of, or all of, the members or the members of any class, unit, or grouping of members or the vote of a larger proportion of, or all of, the directors, than is otherwise required by this part. Such a provision in the bylaws requiring such greater vote shall not be altered, amended or repealed except by such greater vote, unless otherwise provided in the bylaws.

(f) The bylaws may contain a provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

SEC. 79.5. Section 7153 is added to the Corporations Code, to read:

7153. A corporation may provide in its bylaws for voting by its members or delegates on the basis of chapter or other organizational unit, or by region or other geographic grouping.

SEC. 80 Section 7211 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone or telegraph. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting

or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 7212, 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made applicable pursuant to Section 7238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board Such action by written consent shall have the same force and effect as a unanimous vote of such directors.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis.

SEC 81 Section 7212 of the Corporations Code, as added by

Chapter 567 of the Statutes of 1978, is amended to read:

7212. (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board Appointments to such committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in the articles or bylaws. The bylaws may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of such committee or committees The board may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to:

(1) The approval of any action for which this part also requires approval of the members (Section 5034) or approval of a majority of all members (Section 5033).

(2) The filling of vacancies on the board or in any committee which has the authority of the board.

(3) The fixing of compensation of the directors for serving on the board or on any committee.

(4) The amendment or repeal of bylaws or the adoption of new bylaws.

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(6) The appointment of committees of the board or the members thereof.

(7) The expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

(8) With respect to any assets held in charitable trust, the approval of any self-dealing transaction except as provided in paragraph (3) of subdivision (d) of Section 5233.

(b) Subdivision (a) shall not apply to any committee which does not exercise the authority of the board.

(c) Unless the bylaws otherwise provide, the board may delegate to any committee, appointed pursuant to paragraph (4) of subdivision (c) of Section 7151 or otherwise, powers as authorized by Section 7210, but may not delegate the powers set forth in paragraphs (1) through (8) of subdivision (a) of this section

SEC. 82. Section 7220 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

7220. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than three years, as are fixed in the articles or bylaws In the absence of any provision in the articles or bylaws, the term shall be one year. No amendment of the

articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034)

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation without members, and up to one-third of the directors authorized in the articles or bylaws of a corporation with members, may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 7222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034).

(e) The one-third limit set forth in subdivision (d) does not apply to.

(1) Directors designated or selected by a government office, board, commission, department, agency or political subdivision.

(2) Directors designated or selected by a person who is elected by the members as an officer of the corporation.

(3) Directors appointed to fill vacancies on the board created by the death, resignation or removal of directors.

SEC 83. Section 7222 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7222. (a) Subject to subdivisions (b) and (f) of this section, any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, such removal is approved by a majority of all members (Section 5033); or

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 5034).

(b) Except for a corporation having no members, pursuant to Section 7310:

(1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 7615, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election

were then being elected; and

(2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

(d) Except as provided in this section and Sections 7221 and 7223, a director may not be removed prior to the expiration of such director's term of office.

(e) Where a director removed under this section or Section 7221 or 7223 was chosen by designation pursuant to subdivision (d) of Section 7220, then:

(1) Where a different person may be designated pursuant to the governing article or bylaw provision, such new designation shall be made; or

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(f) When by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, any director so designated may only be removed under this section with the written consent of that person or persons.

SEC. 84. Section 7225 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7225. (a) If a corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property, activities, or business will be impaired or lost, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws and whether or not an action is pending for an involuntary winding up or dissolution of the corporation, appoint a provisional director pursuant to this section. Action for such appointment may be brought by any director or by members holding not less than 33⅓ percent of the voting power.

(b) If a corporation has an uneven number of directors and the members are deadlocked so that they cannot elect successor directors at the time prescribed therefor, the superior court of the proper county may, notwithstanding any provisions of the articles or bylaws, upon petition of members holding 50 percent of the voting power, appoint a provisional director or directors pursuant to this section or order such other equitable relief as the court deems appropriate

(c) In the case of a corporation holding assets in charitable trust

(1) Any person bringing an action under subdivision (a) or (b) shall give notice to the Attorney General, who may intervene, and

(2) The Attorney General may bring an action under subdivision

(a) or (b).

(d) A provisional director shall be an impartial person, who is neither a member nor a creditor of the corporation, nor related by consanguinity or affinity within the third degree according to the common law to any of the other directors of the corporation or to any judge of the court by which such provisional director is appointed. A provisional director shall have all the rights and powers of a director until the deadlock in the board or among members is broken or until such provisional director is removed by order of the court or by approval of a majority of all members (Section 5033). Such person shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation.

SEC. 85. Section 7231 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

7231. (a) A director shall perform the duties of a director, including duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances

(b) In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented;

(2) Counsel, independent accountants or other persons as to matters which the director believes to be within such person's professional or expert competence; or

(3) A committee of the board upon which the director does not serve, as to matters within its designated authority, which committee the director believes to merit confidence,

so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted

(c) A person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person's obligations as a director, including, without limiting the generality of the foregoing, any actions or omissions which exceed or defeat a public or charitable purpose to which assets held by a corporation are dedicated.

SEC 86. Section 7233 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7233. (a) No contract or other transaction between a corporation and one or more of its directors, or between a corporation and any domestic or foreign corporation, firm or

association in which one or more of its directors has a material financial interest, is either void or voidable because such director or directors or such other corporation, business corporation, firm or association are parties or because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if:

(1) The material facts as to the transaction and as to such director's interest are fully disclosed or known to the members and such contract or transaction is approved by the members (Section 5034) in good faith, with any membership owned by any interested director not being entitled to vote thereon;

(2) The material facts as to the transaction and as to such director's interest are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the interested director or directors and the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified; or

(3) As to contracts or transactions not approved as provided in paragraph (1) or (2) of this subdivision, the person asserting the validity of the contract or transaction sustains the burden of proving that the contract or transaction was just and reasonable as to the corporation at the time it was authorized, approved or ratified

A mere common directorship does not constitute a material financial interest within the meaning of this subdivision. A director is not interested within the meaning of this subdivision in a resolution fixing the compensation of another director as a director, officer or employee of the corporation, notwithstanding the fact that the first director is also receiving compensation from the corporation.

(b) No contract or other transaction between a corporation and any corporation, business corporation or association of which one or more of its directors are directors is either void or voidable because such director or directors are present at the meeting of the board or a committee thereof which authorizes, approves or ratifies the contract or transaction, if

(1) The material facts as to the transaction and as to such director's other directorship are fully disclosed or known to the board or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common director or directors or the contract or transaction is approved by the members (Section 5034) in good faith; or

(2) As to contracts or transactions not approved as provided in paragraph (1) of this subdivision, the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified

This subdivision does not apply to contracts or transactions covered by subdivision (a)

SEC. 86 3 Section 7235 of the Corporations Code, as added by

Chapter 567 of the Statutes of 1978, is amended to read:

7235. (a) Except as provided in subdivision (b), a corporation shall not make any loan of money or property to or guarantee the obligation of:

(1) Any director or officer of the corporation or of its parent or any subsidiary; or

(2) Any person upon the security of memberships of the corporation or of its parent, unless the loan or guaranty is otherwise adequately secured, except by the vote of the holders of a majority of the voting power of memberships of all classes, regardless of limitations or restrictions on voting rights, other than the membership held by the benefited director, officer or member.

(b) Any corporation may lend money to, or guarantee any obligation of or otherwise assist any officer or other employee of the corporation or of any subsidiary, including any officer or employee who is also a director, pursuant to an employee benefit plan available to executives or other employees, whenever the board determines that such loan or guaranty may reasonably be expected to benefit the corporation. If such plan includes officers or directors, it shall be approved by the members (Section 5034) after disclosure of the right under such plan to include officers or directors thereunder. Such loan or guarantee or other assistance may be with or without interest and may be unsecured or secured in such manner as the board shall approve, including, without limitation, a pledge of memberships of the corporation. A corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such director or officer, provided that in the absence of such advance such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent or any subsidiary.

(c) The provisions of subdivisions (a) and (b) do not apply to credit unions, or to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value, or to loans permitted under any statute regulating any special class of corporations.

SEC. 86.7. Section 7236 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7236. (a) Subject to the provisions of Section 7231, directors of a corporation who approve any of the following corporate actions shall be jointly and severally liable to the corporation or to the creditors entitled to institute an action under subdivision (c):

(1) The making of any distribution contrary to the provisions of Chapter 4 (commencing with Section 7410).

(2) The distribution of assets after institution of dissolution proceedings of the corporation, without paying or adequately providing for all known liabilities of the corporation, excluding any

claims not filed by creditors within the time limit set by the court in a notice given to creditors under Chapter 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710).

(3) The making of any loan or guaranty contrary to Section 7235.

(b) A director who is present at a meeting of the board, or any committee thereof, at which action specified in subdivision (a) is taken and who abstains from voting shall be considered to have approved the action.

(c) Suit may be brought in the name of the corporation to enforce the liability:

(1) Under paragraph (1) of subdivision (a) against any or all directors liable by the persons entitled to sue under subdivision (b) of Section 7420;

(2) Under paragraph (2) or (3) of subdivision (a) against any or all directors liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the corporate action who have not consented to the corporate action, whether or not they have reduced their claims to judgment; or

(3) Under paragraph (3) of subdivision (a) against any or all directors liable by any one or more members at the time of any corporate action specified in paragraph (3) of subdivision (a) who have not consented to the corporate action, without regard to the provisions of Section 7710

(d) The damages recoverable from a director under this section shall be the amount of the illegal distribution, or the loss suffered by the corporation as a result of the illegal loan or guaranty.

(e) Any director sued under this section may implead all other directors liable and may compel contribution, either in that action or in an independent action against directors not joined in that action.

(f) Directors liable under this section shall also be entitled to be subrogated to the rights of the corporation·

(1) With respect to paragraph (1) of subdivision (a), against the persons who received the distribution

(2) With respect to paragraph (2) of subdivision (a), against the persons who received the distribution.

(3) With respect to paragraph (3) of subdivision (a), against the person who received the loan or guaranty.

Any director sued under this section may file a cross complaint against the person or persons who are liable to such director as a result of the subrogation provided for in this subdivision or may proceed against them in an independent action.

SEC. 87. Section 7240 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

7240. A corporation holding assets in charitable trust is subject at all times to examination by the Attorney General, on behalf of the state, to ascertain to what extent, if at all, it has failed or is failing to comply with trusts it has assumed In case of any such failure the Attorney General, in the name of the state, may institute against any

person or persons the proceedings necessary to correct the failure.

SEC. 88. Section 7310 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members.

(b) In the case of a corporation which has no members:

(1) Any action which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board, any provision of this part or the articles or bylaws to the contrary notwithstanding.

(2) All rights which would otherwise vest in the members shall vest in the directors, including, but not limited to, any rights of members to share in a distribution upon dissolution.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

SEC. 89. Section 7311 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7311. (a) Subject to the articles or bylaws, memberships may be issued by a corporation for no consideration or for such consideration as is determined by the board.

(b) Except as provided in subdivision (d), and subject to Section 7351, memberships issued as provided in this section shall be declared and taken to be fully paid memberships and not liable to any further call nor shall the member be liable for any further payments for such membership.

(c) In the absence of fraud in the transaction, the judgment of the directors as to the value of the consideration for memberships shall be conclusive.

(d) A corporation may issue the whole or any part of its memberships as partly paid and subject to call for the remainder of the consideration to be paid therefor.

SEC. 90. Section 7312 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7312. No person may hold more than one membership, and no fractional memberships may be held, provided, however, that.

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in such manner or under the circumstances prescribed by, the articles or bylaws subject to Section 7612; and

(b) If the articles or bylaws provide for classes of membership and if the articles or bylaws permit a person to be a member of more than one class, a person may hold a membership in one or more classes, and

(c) Any branch, division, or office of any person, which is not formed primarily to be a member, may hold a separate membership.

(d) In the case of membership in an owners association, (as

defined in Section 11003.1 of the Business and Professions Code, and created in connection with any of the forms of development referred to in Section 11004.5 of the Business and Professions Code) the articles or bylaws may permit a person who owns an interest, or who has a right of exclusive occupancy, in more than one lot, parcel, area, apartment, or unit to hold a separate membership in the owners association for each such lot, parcel, area, apartment, or unit.

SEC. 90.5. Section 7313 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7313. (a) Except as provided in subdivision (d) of Section 7311, a corporation may, but is not required to, issue membership certificates. Nothing in this section shall restrict a corporation from issuing identity cards or similar devices to members which serve to identify members qualifying to use facilities or services of the corporation.

(b) Membership certificates issued by corporations shall state on the certificate that:

(1) The corporation is a nonprofit mutual benefit corporation which may not make distributions to its members except upon dissolution, or, if the articles so provide, that it may not make distributions to its members during its life or upon dissolution;

(2) If there are restrictions upon the transferability, a statement that a copy of the restrictions are on file with the secretary of the corporation and are open for inspection by a member on the same basis as the records of the corporation; and

(3) The statement, if any, required by subdivision (d) of Section 7311.

(c) If the membership certificates are transferable only with consent of the corporation, or if there are no membership certificates, then instead of complying with paragraph (2) of subdivision (b) the corporation may, or if there are no membership certificates, shall, give notice to the transferee, within a reasonable time after the corporation is first notified of the proposed transfer, and before the membership is transferred on the books and records of the corporation, of the information that would otherwise be provided by the legends required by paragraph (2) of subdivision (b)

(d) If the articles or bylaws are amended so that any statement required by subdivision (b) upon outstanding membership certificates is no longer accurate, then the board may cancel the outstanding certificates and issue in their place new certificates conforming to the articles or bylaw amendments.

(e) Where new membership certificates are issued in accordance with subdivision (d), the board may order holders of outstanding certificates to surrender and exchange them for new certificates within a reasonable time fixed by the board. The board may further provide that the holder of a certificate so ordered to be surrendered shall not be entitled to exercise any of the rights of membership until the certificate is surrendered and exchanged, but rights shall be

suspended only after notice of such order is given to the holder of the certificate and only until the certificate is exchanged. The duty of surrender of any outstanding certificates may also be enforced by civil action.

SEC. 91. Section 7315 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7315. (a) Except as provided in subdivision (b), or in its articles or bylaws, a corporation may admit any person to membership.

(b) A corporation may not admit its subsidiary (Section 5073) to membership.

SEC. 92. Section 7330 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7330. A corporation may issue memberships having different rights, privileges, preferences, restrictions, or conditions, as authorized by its articles or bylaws.

SEC. 93. Section 7331 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7331. Except as provided in or authorized by the articles or bylaws, all memberships shall have the same rights, privileges, preferences, restrictions and conditions.

SEC 94. Section 7333 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7333. (a) A corporation may refer to persons associated with it as "members" even though such persons are not members within the meaning of Section 5056; but references to members in this part mean members as defined in Section 5056.

(b) A corporation may benefit, serve, or assist persons who are not members within the meaning of Section 5056 for such consideration, if any, as the board may determine or as is authorized or provided for in the articles or bylaws.

SEC. 94.5. Section 7340 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7340. (a) A member may resign from membership at any time, although the articles or bylaws may require reasonable notice before the resignation is effective.

(b) This section shall not relieve the resigning member from any obligation for charges incurred, services or benefits actually rendered, dues, assessments or fees, or arising from contract, a condition to ownership of land, an obligation arising out of the ownership of land, or otherwise, and this section shall not diminish any right of the corporation to enforce any such obligation or obtain damages for its breach.

(c) A membership issued for a period of time shall expire when such period of time has elapsed unless the membership is renewed.

SEC. 95. Section 7341 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7341. (a) No member may be expelled or suspended, and no membership or memberships may be terminated or suspended, except according to procedures satisfying the requirements of this

section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension, or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.

(c) A procedure is fair and reasonable when:

(1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of such provisions are sent annually to all the members as required by the articles or bylaws;

(2) It provides the giving of 15 days' prior notice of the expulsion, suspension or termination and the reasons therefor; and

(3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the members shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership, including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is successful the court may order any relief, including reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefor. An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful is not made valid by compliance with this section.

SEC. 96. Section 7351 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

7351. A corporation may levy dues, assessments, or fees upon its members pursuant to its articles or bylaws, but a member upon learning of them may avoid liability for them by promptly resigning from membership, except where the member is liable for them by contract, as a condition to ownership of an interest in real property,

as an obligation arising out of the ownership of an interest in real property, or otherwise. Article or bylaw provisions authorizing such dues, assessments or fees do not, of themselves, create such liability.

SEC. 96.5. Section 7411 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7411. (a) Except as provided in subdivision (b), no corporation shall make any distribution except upon dissolution.

(b) A corporation may, subject to meeting the requirements of Sections 7412 and 7413 and any additional restrictions authorized by Section 7414, purchase or redeem memberships.

SEC. 97. Section 7413 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7413. Neither a corporation nor any of its subsidiaries shall purchase or redeem a membership of the parent or subsidiary if the articles of the corporation contain a provision authorized by paragraph (4), clause (ii), of subdivision (a) of Section 7132 and such corporation or the subsidiary making the purchase or redemption is, or as a result thereof would be, likely to be unable to meet the obligations resulting from such article provision.

SEC. 97 5. Section 7420 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7420. (a) Any person who with knowledge of facts indicating the impropriety thereof receives any distribution not authorized by the provisions of this chapter is liable to the corporation for the benefit of the head organization, or of all of the creditors or members entitled to institute an action under subdivision (b) for the amount so received by such person with interest thereon at the legal rate on judgments until paid, but not exceeding the obligations of the corporation owed to the head organization at the time of the violation, the liabilities of the corporation owed to nonconsenting creditors at the time of the violation, or the injury suffered by nonconsenting members, as the case may be.

(b) Suit may be brought in the name of the corporation to enforce the liability (1) to creditors arising under subdivision (a) for a violation of Section 7411 or 7412 against any or all persons liable by any one or more creditors of the corporation whose debts or claims arose prior to the time of the distribution and who has not consented thereto, whether or not they have reduced their claims to judgment, or (2) to the head organization arising under subdivision (a) for a violation of Section 7413 against any or all persons liable by any head organization which pursuant to the corporation's articles is entitled to a distribution of assets upon dissolution

(c) Any person sued under this section may implead all other persons liable under this section and may in the absence of fraud by such moving party compel contribution, either in that action or in an independent action against persons not joined in that action

(d) Nothing contained in this section affects any liability which any person may have under Sections 3439 to 3439.12, inclusive, of the Civil Code

SEC. 98. Section 7510 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7510. (a) Meetings of members may be held at a place within or without the state that is stated in or fixed in accordance with the bylaws. If no other place is so stated or fixed, meetings of members shall be held at the principal office of the corporation

(b) A regular meeting of members shall be held annually. In any year in which directors are elected, the election shall be held at the regular meeting unless the directors are chosen in some other manner authorized by law. Any other proper business may be transacted at the meeting.

(c) If a corporation with members fails to hold the regular meeting for a period of 60 days after the date designated therefor or, if no date has been designated, for a period of 15 months after the formation of the corporation or after its last regular meeting, or if the corporation fails to hold a written ballot for a period of 60 days after the date designated therefor, then the superior court of the proper county may summarily order the meeting to be held or the ballot to be conducted upon the application of a member, after notice to the corporation giving it an opportunity to be heard.

(d) The votes represented, either in person or by proxy, at a meeting called or by written ballot ordered pursuant to subdivision (c) and entitled to be cast on the business to be transacted shall constitute a quorum, notwithstanding any provision of the articles or bylaws or in this part to the contrary. The court may issue such orders as may be appropriate including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote, and the form of notice of the meeting

(e) Special meetings of members may be called by the board, the chairman of the board, the president, or such other persons, if any, as are specified in the bylaws. In addition, special meetings of members for any lawful purpose may be called by 5 percent or more of the members

SEC 99. Section 7511 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

7511 (a) Whenever members are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10 nor more than 90 days before the date of the meeting to each member who, on the record date for notice of the meeting, is entitled to vote thereat; provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered, or certified mail, that notice shall be given not less than 20 days before the meeting Subject to subdivision (f), and subdivision (b) of Section 7512, such notice shall state the place, date and time of the meeting and (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) in the case of the regular meeting, those matters which the board, at the time the notice is given, intends to present

for action by the members, but, except as provided in subdivision (b) of Section 7512, any proper matter may be presented at the meeting for such action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is given to members.

(b) Notice of a members' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to a member at the address of such member appearing on the books of the corporation or given by the member to the corporation for purpose of notice; or if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. An affidavit of giving of any notice or report in accordance with the provisions of this part, executed by the secretary, assistant secretary or any transfer agent, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the member at the address of such member appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the member at such address, all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available for the member upon written demand of the member at the principal office of the corporation for a period of one year from the date of the giving of the notice or report to all other members.

(c) Upon request in writing to the chairman of the board, president, vice president or secretary by any person (other than the board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the board not less than 35 nor more than 90 days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice or the superior court of the proper county shall summarily order the giving of the notice, after notice to the corporation giving it an opportunity to be heard. The court may issue such orders as may be appropriate, including, without limitation, orders designating the time and place of the meeting, the record date for determination of members entitled to vote and the form of notice.

(d) When a members' meeting is adjourned to another time or place, unless the bylaws otherwise require and except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken At the adjourned meeting the corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned

meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

(e) The transactions of any meeting of members however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this part to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, unless otherwise provided in the articles or bylaws, except as provided in subdivision (f).

(f) Any approval of the members required under Section 7222, 7224, 7233, 7812 or 8719 other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(g) A court may find that notice not given in conformity with this section is still valid, if it was given in a fair and reasonable manner.

SEC. 100. Section 7512 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7512. (a) A majority of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). In the case of a mutual water company, the bylaws may not set a quorum of less than 20 percent of the voting power. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 7511

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

SEC. 100.5. Section 7513 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7513. (a) Subject to subdivision (e), and unless otherwise provided in the articles, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation

(b) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 7511 and Section 7514 All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted

(d) Unless otherwise provided in the articles or bylaws, a written ballot may not be revoked.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 7615

SEC. 101 Section 7514 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

7514 (a) Any form of proxy or written ballot distributed to 10 or more members of a corporation with 100 or more members shall afford an opportunity on the proxy or form of written ballot to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted upon at the meeting for which the

proxy is solicited or by such written ballot, and shall provide, subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter the vote shall be cast in accordance therewith.

(b) In any election of directors, any form of proxy or written ballot in which the directors to be voted upon are named therein as candidates and which is marked by a member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted either for or against the election of a director.

(c) Failure to comply with this section shall not invalidate any corporate action taken, but may be the basis for challenging any proxy at a meeting or written ballot and the superior court may compel compliance therewith at the suit of any member.

SEC. 101.2. Section 7515 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7515. (a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, delegate or member, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances.

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part.

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section, provided, however, that an order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order

issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws, and this part.

SEC. 101.4 Section 7521 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7521 Except for directors who are elected as authorized by Section 7152, or Section 7153, and except as provided in Section 7522, any person who is qualified to be elected to the board of directors of a corporation with 500 or more members may be nominated.

(a) By any method authorized by the bylaws, or if no method is set forth in the bylaws by any method authorized by the board;

(b) By petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by members representing the following number of votes·

Number of Votes Eligible to be Cast for Director Disregarding any Provision for Cumulative Voting	*Number of Votes*
Under 5,000	2 percent of voting power
5,000 or more	one-twentieth of 1 percent of voting power but not less than 100

(c) Notwithstanding subdivision (b), in corporations with one million or more members engaged primarily in the business of retail merchandising of consumer goods, by petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by such reasonable number of members, consistent with Section 7520, as is set forth in the bylaws, or if no number is set forth in the bylaws, by such reasonable number of members, consistent with Section 7520, as is determined by the directors

(d) If there is a meeting to elect directors, by any member present at the meeting in person or by proxy if proxies are permitted

SEC 101 6. Section 7522 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

7522 (a) The provisions of this section shall apply to any election of a director or directors by members of a corporation with 5,000 or more members except for an election authorized by Section 7152 or Section 7153

(b) The corporation's articles or bylaws shall set a date for the close of nominations for the board The date shall not be less than 50 nor more than 120 days before the day directors are to be elected No nominations for the board can be made after the date set for the close of nominations

(c) If more people are nominated for the board than can be

elected, the election shall take place by means of a procedure which allows all nominees a reasonable opportunity to solicit votes and all members a reasonable opportunity to choose among the nominees.

(d) If after the close of nominations the number of people nominated for the board is not more than the number of directors to be elected, the corporation may without further action declare that those nominated and qualified to be elected have been elected.

SEC 101.8. Section 7527 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7527 An action challenging the validity of any election, appointment or removal of a director or directors must be commenced within nine months after the election, appointment or removal If no such action is commenced, in the absence of fraud, any election, appointment or removal of a director is conclusively presumed valid nine months thereafter if the only defect in the election, appointment or removal is the failure to give notice as provided in this part or in the corporation's articles or bylaws

SEC 102 Section 7611 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7611. (a) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to notice of any meeting of members. Such record date shall not be more than 60 nor less than 10 days before the date of the meeting. If no record date is fixed, members at the close of business on the business day preceding the day on which notice is given or, if notice is waived, at the close of business on the business day preceding the day on which the meeting is held are entitled to notice of a meeting of members. A determination of members entitled to notice of a meeting of members shall apply to any adjournment of the meeting unless the board fixes a new record date for the adjourned meeting.

(b) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to vote at a meeting of members. Such record date shall not be more than 60 days before the date of the meeting Such record date shall also apply in the case of an adjournment of the meeting unless the board fixes a new record date for the adjourned meeting. If no record date is fixed, members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of members or, in the case of an adjourned meeting, members on the day of the adjourned meeting who are otherwise eligible to vote are entitled to vote at the adjourned meeting of members

(c) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to cast written ballots (Section 7513) Such record date shall not be more than 60 days before the day on which the first written ballot is mailed or solicited. If no record date is fixed, members on the day the first written ballot

is mailed or solicited who are otherwise eligible to vote are entitled to cast written ballots.

(d) The bylaws may provide or, in the absence of such provision, the board may fix, in advance, a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. Such record date shall not be more than 60 days prior to such other action. If no record date is fixed, members at the close of business on the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later, are entitled to exercise such rights.

SEC. 103. Section 7613 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7613. (a) Every person entitled to vote a membership may authorize another person or persons to act by proxy with respect to such membership except that this right may be limited or withdrawn by the articles or bylaws, subject to subdivision (f). Any proxy purported to be executed in accordance with the provisions of this part shall be presumptively valid.

(b) No proxy shall be valid after the expiration of 11 months from the date thereof unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three years from the date of execution. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto, except as otherwise provided in this section. Such revocation may be effected by a writing delivered to the corporation stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy. The dates contained on the forms of proxy presumptively determine the order of execution, regardless of the postmark dates on the envelopes in which they are mailed.

(c) A proxy is not revoked by the death or incapacity of the maker or the termination of a membership as a result thereof unless, before the vote is counted, written notice of such death or incapacity is received by the corporation.

(d) Unless otherwise provided in the articles or bylaws, the proxy of a member which states that it is irrevocable is irrevocable for the period specified therein (notwithstanding subdivision (c)) when it is held by any of the following or a nominee of any of the following:

(1) A person who has purchased or who has agreed to purchase the membership;

(2) A creditor or creditors of the corporation or the member who extended or continued credit to the corporation or the member in consideration of the proxy if the proxy states that it was given in consideration of such extension or continuation of credit and the name of the person extending or continuing the credit; or

(3) A person who has contracted to perform services as an

employee of the corporation, if the proxy is required by the contract of employment and if the proxy states that it was given in consideration of such contract of employment, the name of the employee and the period of employment contracted for

Notwithstanding the period of irrevocability specified, the proxy becomes revocable when the agreement to purchase is terminated; the debt of the corporation or the member is paid; or the period of employment provided for in the contract of employment has terminated. In addition to the foregoing paragraphs (1) through (3), a proxy of a member may be made irrevocable (notwithstanding subdivision (c)) if it is given to secure the performance of a duty or to protect a title, either legal or equitable, until the happening of events which, by its terms, discharge the obligations secured by it.

(e) A proxy may be revoked, notwithstanding a provision making it irrevocable, by a transferee of a membership without knowledge of the existence of the provision unless the existence of the proxy and its irrevocability appears on the certificate representing the membership

(f) Subdivision (a) notwithstanding.

(1) No amendment of the articles or bylaws repealing, restricting, creating or expanding proxy rights may be adopted without approval by the members (Section 5034); and

(2) No amendment of the articles or bylaws restricting or limiting the use of proxies may affect the validity of a previously issued irrevocable proxy during the term of its irrevocability, so long as it complied with applicable provisions, if any, of the articles or bylaws at the time of its issuance, and is otherwise valid under this section.

(g) Anything to the contrary notwithstanding, any revocable proxy covering matters requiring a vote of the members pursuant to Section 7222, Section 7224; Section 7233; paragraph (1) of subdivision (f) of this section, Section 7812, paragraph (2) of subdivision (a) of Section 7911; Section 8012; subdivision (a) of Section 8015; Section 8610; or subdivision (a) of Section 8719 is not valid as to such matters unless it sets forth the general nature of the matter to be voted on.

SEC. 104. Section 7615 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7615. (a) If the articles or bylaws authorize cumulative voting, but not otherwise, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit An article or bylaw provision authorizing cumulative voting may be repealed or amended only by approval of the members (Section 5034), except that the governing article or bylaw provision may require the vote of a greater proportion of the members, or of the members of any class, for its repeal

(b) No member shall be entitled to cumulate votes for a candidate

or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and the member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given such notice, all members may cumulate their votes for candidates in nomination.

(c) In any election of directors, the candidates receiving the highest number of votes are elected, subject to any lawful provision specifying election by classes.

(d) Elections for directors need not be by ballot unless a member demands election by ballot at the meeting and before the voting begins or unless the bylaws so require.

SEC. 105 Section 7810 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

7810. (a) By complying with the provisions of this chapter, a corporation may amend its articles from time to time, in any and as many respects as may be desired, so long as its articles as amended contain only such provisions as it would be lawful to insert in original articles filed at the time of the filing of the amendment or as authorized by Section 7813.5 and, if a change in the rights of members or an exchange, reclassification or cancellation of memberships is to be made, such provisions as may be necessary to effect such change, exchange, reclassification or cancellation It is the intent of the Legislature in adopting this section to exercise to the fullest extent the reserve power of the state over corporations and to authorize any amendment of the articles covered by the preceding sentence regardless of whether any provision contained in the amendment was permissible at the time of the original incorporation of the corporation.

(b) A corporation shall not amend its articles to alter any statement which may appear in the original articles of the names and addresses of the first directors, nor the name and address of the initial agent, except to correct an error in the statement or to delete either after the corporation has filed a statement under Section 8210.

SEC. 106. Section 7812 of the Corporations Code is amended to read.

7812 (a) Except as provided in this section or Section 7813, amendments may be adopted if approved by the board and approved by the members (Section 5034) and approved by such other person or persons, if any, as required by the articles The approval by the members or other person or persons may be before or after the approval by the board

(b) Notwithstanding subdivision (a), the following amendments may be adopted by approval of the board alone:

(1) An amendment extending the corporate existence or making the corporate existence perpetual, if the corporation was organized prior to August 14, 1929

(2) An amendment deleting the names and addresses of the first directors or the name and address of the initial agent

(3) Any amendment, at a time the corporation has no members; provided, however, that if the articles require approval by any person for an amendment, an amendment may not be adopted without such approval.

(4) An amendment adopted pursuant to Section 9913.

(c) Whenever the articles require for corporate action the approval of a particular class of members or of a larger proportion of, or all of, the votes of any class, or of a larger proportion of, or all of, the directors, than is otherwise required by this part, the provision in the articles requiring such greater vote shall not be altered, amended or repealed except by such class or such greater vote, unless otherwise provided in the articles.

SEC 107. Section 7813 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed.

SEC. 108. Section 7813 is added to the Corporations Code, to read:

7813. An amendment must also be approved by the members (Section 5034) of a class, whether or not such class is entitled to vote thereon by the provisions of the articles, if the amendment would:

(a) Materially and adversely affect the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption or transfer in a manner different than such action affects another class;

(b) Materially and adversely affect such class as to voting, dissolution, redemption or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class;

(c) Increase or decrease the number of memberships authorized for such class;

(d) Increase the number of memberships authorized for another class;

(e) Effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or

(f) Authorize a new class of memberships

SEC 109. Section 7813.5 is added to the Corporations Code, to read:

7813.5 (a) A mutual benefit corporation may amend its articles to change its status to that of a public benefit corporation, a religious corporation or a business corporation by complying with the provisions of this section and the other sections of this chapter.

(b) Except as authorized by Section 7811 or unless the corporation has no members, an amendment to change its status to a public benefit corporation or religious corporation shall: (i) be approved by the members (Section 5034), and the fairness of the amendment to the members shall be approved by the Commissioner of Corporations pursuant to Section 25142; or (ii) be approved by 100 percent of the voting power.

(c) Amended articles authorized by this section shall include the provisions which would have been required (other than the name of the initial agent for service of process if a statement has been filed

pursuant to Section 8210), and may in addition only include those provisions which would have been permitted, in original articles filed by the type of corporation (public benefit, religious or business) into which the mutual benefit corporation is changing its status.

(d) At the time of filing a certificate of amendment to change status to a public benefit corporation, a corporation shall furnish an additional copy of the certificate of amendment to the Secretary of State who shall forward that copy to the Attorney General.

(e) In the case of a change of status to a business corporation, if the Franchise Tax Board has issued a determination exempting the corporation from tax as provided in Section 23701 of the Revenue and Taxation Code, the corporation shall be subject to Section 23221 of the Revenue and Taxation Code upon filing the certificate of amendment

SEC. 110. Section 7814 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7814. (a) Except for amendments adopted by the incorporators pursuant to Section 7811, upon adoption of an amendment, the corporation shall file a certificate of amendment, which shall consist of an officers' certificate stating·

(1) The wording of the amendment or amended articles in accordance with Section 7816,

(2) That the amendment has been approved by the board;

(3) If the amendment is one for which the approval of the members (Section 5034) or the approval of 100 percent of the voting power is required, that the amendment was approved by the required vote of members, and

(4) If the amendment is one which may be adopted with approval by the board alone, a statement of the facts entitling the board alone to adopt the amendment.

(5) If the amendment is one for which the approval of a person or persons other than the incorporators, directors or members is required, that the approval of such person or persons has been obtained

(b) In the event of an amendment of the articles pursuant to a merger, the filing of the officers' certificate and agreement pursuant to Section 8014 shall be in lieu of any filing required under this chapter

SEC. 111 Section 7815 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

7815 In the case of amendments adopted by the incorporators under Section 7811, the corporation shall file a certificate of amendment signed and verified by a majority of the incorporators which shall state that the signers thereof constitute at least a majority of the incorporators, that directors were not named in the original articles and have not been elected, that the corporation has no members and that they adopt the amendment or amendments therein set forth

SEC 112 Section 8010 of the Corporations Code, as added by

Chapter 567 of the Statutes of 1978, is amended to read:

8010. Any mutual benefit corporation may merge with another mutual benefit corporation, foreign corporation, foreign business corporation or domestic corporation, provided, however, that a merger with a public benefit corporation or a religious corporation must have the prior written consent of the Attorney General.

SEC. 113. Section 8011 of the Corporations Code is amended to read:

8011. The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons may be parties to the agreement of merger. The agreement shall state:

(a) The terms and conditions of the merger;

(b) The amendments, subject to Sections 7810 and 7816, to the articles of the surviving corporation to be effected by the merger, if any; if any amendment changes the name of the surviving corporation, the new name may be the same as or similar to the name of a disappearing corporation, subject to subdivision (c) of Section 7122;

(c) The amendments to the bylaws of the surviving corporation to be effected by the merger, if any;

(d) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation;

(e) The manner, if any, of converting memberships or securities of the constituent corporations into memberships or securities of the surviving corporation and, if any memberships or securities of any of the constituent corporations are not to be converted solely into memberships or securities of the surviving corporation, the cash, property, rights or securities of any corporation which the holders of such memberships or securities are to receive in exchange for such memberships or securities, which cash, property, rights or securities of any corporation may be in addition to or in lieu of memberships or securities of the surviving corporation; and

(f) Such other details or provisions as are desired, if any, including, without limitation, if not prohibited by this chapter, a provision for the payment of cash in lieu of fractional memberships or for any other arrangement with respect thereto.

SEC. 114 Section 8011.5 is added to the Corporations Code, to read:

8011 5. Each membership of the same class of any constituent corporation (other than the cancellation of memberships held by a surviving corporation or its parent or a wholly owned subsidiary of either in a constituent corporation) shall be treated equally with respect to any distribution of cash, property, rights or securities unless: (i) all members of the class consent or (ii) the Commissioner of Corporations has approved the terms and conditions of the transaction and the fairness of such terms pursuant to Section 25142.

SEC. 115. Section 8012 of the Corporations Code, as added by

Chapter 567 of the Statutes of 1978, is amended to read:

8012 The principal terms of the merger shall be approved by the board and by the members (Section 5034) of each class which has different rights upon merger of each corporation which desires to merge and by each other person or persons whose approval of an amendment of articles is required by the articles; and the approval by the members (Section 5034) or such other person or persons required by this section may be given before or after the approval by the board

SEC 116 Section 8110 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read.

8110. Any proceeding, initiated with respect to a corporation, under any applicable statute of the United States, as now existing or hereafter enacted, relating to reorganizations or arrangements of corporations, shall be governed by the provisions of Chapter 14 (commencing with Section 1400) of Division 1 of Title 1, and for this purpose the reference in Chapter 14 to "shareholders" shall be deemed to be a reference to members and the reference to "this division" shall be deemed to be a reference to this part

SEC 116 5. Section 8210 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

8210 (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer, (2) the street address of its principal office in this state, if any.

(b) The statement required by subdivision (a) shall also designate, as the agent of such corporation for the purpose of service of process, a natural person residing in this state or any domestic or foreign or foreign business corporation which has complied with Section 1505, 6213, or 8213 and whose capacity to act as such agent has not terminated If a natural person is designated, the statement shall set forth such person's complete business or residence address If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State Neither the failure of the Secretary of State to mail the form nor the failure of the corporation to receive it is an excuse for failure to comply with this section

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing

all the information required by subdivisions (a) and (b) In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section

SEC. 117. Section 8214 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8214 Upon request of an assessor, a corporation owning, claiming, possessing or controlling property in this state subject to local assessment shall make available at the corporation's principal office in California or at a place mutually acceptable to the assessor and the corporation a true copy of business records relevant to the amount, cost and value of all property that it owns, claims, possesses or controls within the county.

SEC. 118. Section 8321 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8321 (a) A corporation shall notify each member yearly of the member's right to receive a financial report pursuant to this subdivision. Except as provided in subdivision (c), upon written request of a member the board shall promptly cause the most recent annual report to be sent to the requesting member. An annual report shall be prepared not later than 120 days after the close of the corporation's fiscal year. Such report shall contain in appropriate detail the following:

(1) A balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year

(2) A statement of the place where the names and addresses of the current members are located.

(3) Any information required by Section 8322.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

(c) This section does not apply to corporations which do not have more than 100 members or ten thousand dollars ($10,000) in assets at any time during the fiscal year.

SEC 119. Section 8331 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

8331 (a) Where the corporation, in good faith, and with a

substantial basis, believes that the membership list, demanded under Section 8330 by the authorized number (Section 5036), will be used for a purpose not reasonably related to the interests as members of the person or persons making the demand (hereinafter called the requesting parties) as members or provides a reasonable alternative pursuant to subdivision (c) of Section 8330, it may petition the superior court of the proper county for an order setting aside the demand.

(b) Except as provided in subdivision (c), a petition for an order to show cause why a protective order pursuant to subdivision (d) should not issue shall be filed within 10 business days after the demand by the authorized number under Section 8330 or receipt of a written rejection by the authorized number of an offer made pursuant to subdivision (c) of Section 8330, whichever is later. The petition shall be accompanied by an application for a hearing on the petition. Upon the filing of the petition, the court shall issue a protective order staying production of the list demanded until the hearing on the order to show cause. The court shall set the hearing on the order to show cause not more than 20 days from the date of the filing of the petition. The order to show cause shall be granted unless the court finds that there is no reasonable probability that the corporation will make the showing required under subdivision (f).

(c) A corporation may file a petition under this section more than 10 business days after the demand or rejection under Section 8330, but only upon a showing the delay was caused by excusable neglect. In no event, however, may any petition under this section be considered if filed more than 30 days after the requesting parties' demand or rejection, whichever is later.

(d) Upon the return day of the order to show cause, the court may issue a protective order staying production of the list demanded until final adjudication of the petition filed pursuant to this section. No protective order shall issue under this subdivision unless the court finds that the rights of the requesting parties can reasonably be preserved and that the corporation is likely to make the showing required by subdivision (f) or the court is likely to issue a protective order pursuant to subdivision (g).

(e) If the corporation fails to file a petition within the time allowed by subdivision (b) or (c), whichever is applicable, or fails to obtain a protective order under subdivision (d), then the corporation shall comply with the demand, and no further action may be brought by the corporation under this section.

(f) The court shall issue the final order setting aside the demand only if the corporation proves:

(1) That there is a reasonable probability that the requesting parties will permit use of the membership list for a purpose unrelated to their interests as members; or

(2) That the method offered by the corporation is a reasonable alternative in that it reasonably achieves the proper purpose set forth in the requesting parties' demand and that the corporation intends

and is able to effectuate the reasonable alternative.

(g) In the final order, the court may, in its discretion, order an alternate mechanism for achieving the proper purposes of the requesting parties, or impose just and proper conditions upon the use of the membership list which reasonably assures compliance with Section 8330 and Section 8338

(h) The court shall award reasonable costs and expenses including reasonable attorneys' fees, to requesting parties who successfully oppose any petition or application filed pursuant to this section.

(i) Where the corporation has neither, within the time allowed, complied with a demand by the authorized number (Section 5036) under Section 8330, nor obtained a protective order staying production of the list, or a final order setting aside the demand, which is then in effect, the requesting parties may petition the superior court of the proper county for a writ of mandamus pursuant to Section 1085 of the Code of Civil Procedure compelling the corporation to comply with the demand. At the hearing, the court shall hear the parties summarily, by affidavit or otherwise, and shall issue a peremptory writ of mandamus unless it appears that the demand was not made by an authorized number (Section 5036), that the demand has been complied with, that the corporation, pursuant to subdivision (c) of Section 8330, made an offer which was not rejected in writing within a reasonable time, or that a protective or final order properly issued under subdivision (d), (f) or (g) is then in effect. No inquiry may be made in such proceeding into the use for which the authorized number seek the list. The court shall award reasonable costs and expenses, including reasonable attorneys' fees, to persons granted an order under this subdivision.

(j) Nothing in this section shall be construed to limit the right of the corporation to obtain damages for any misuse of a membership list obtained under Section 8330, or otherwise, or to obtain injunctive relief necessary to restrain misuse of a member list. A corporation shall be entitled to recover reasonable costs and expenses, including reasonable attorneys' fees, incurred in successfully bringing any such action.

SEC. 120 Section 8335 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read.

8335 Where the proper purpose of the person or persons making a demand pursuant to Section 8330 is frustrated by (1) any delay by the corporation in complying with a demand under Section 8330 beyond the time limits specified therein, or (2) any delay caused by the filing of a petition under Section 8331 or Section 8332, or (3) any delay caused by the alternative proposed under subdivision (c) of Section 8330, the person or persons properly making the demand shall have, in the discretion of the court, a right to obtain from the superior court an order postponing any members' meeting previously noticed for a period equal to the period of such delay. The members may obtain such an order in a proceeding brought pursuant to Section 8331 upon the filing of a verified complaint in the

proper county and after a hearing, notice of which shall be given to such persons and in such manner as the court may direct. Such right shall be in addition to any other legal or equitable remedies to which the member may be entitled.

SEC. 121. Section 8336 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8336. (a) Upon refusal of a lawful demand for inspection under this chapter, or a lawful demand pursuant to Section 8330 or Section 8333, the superior court of the proper county, or the county where the books or records in question are kept, may enforce the demand or right of inspection with just and proper conditions or may, for good cause shown, appoint one or more competent inspectors or independent accountants to audit the financial statements kept in this state and investigate the property, funds and affairs of any corporation and of any subsidiary corporation thereof, domestic or foreign, keeping records in this state and to report thereon in such manner as the court may direct.

(b) All officers and agents of the corporation shall produce to the inspectors or accountants so appointed all books and documents in their custody or power, under penalty of punishment for contempt of court.

(c) All expenses of the investigation or audit shall be defrayed by the applicant unless the court orders them to be paid or shared by the corporation.

SEC. 122. Section 8510 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8510. (a) A complaint for involuntary dissolution of a corporation on any one or more of the grounds specified in subdivision (b) may be filed in the superior court of the proper county by any of the following persons:

(1) One-half or more of the directors in office.

(2) A person or persons holding or authorized in writing by persons holding not less than 33⅓ percent of the voting power exclusive of memberships held by persons who have personally participated in any of the transactions enumerated in paragraph (5) of subdivision (b).

(3) Any member if the ground for dissolution is that the period for which the corporation was formed has terminated without extension thereof.

(4) Any other person expressly authorized to do so in the articles.

(5) In the case of a corporation holding assets in charitable trust, the Attorney General.

(6) The head organization under whose authority the corporation was created, where the corporation's articles include the provision authorized by subdivision (a), paragraph (4), clause (i), of Section 7132.

(b) The grounds for involuntary dissolution are that:

(1) The corporation has abandoned its activity for more than one year

(2) The corporation has an even number of directors who are equally divided and cannot agree as to the management of its affairs, so that its activities can no longer be conducted to advantage or so that there is danger that its property will be impaired or lost or its activities impaired and the members are so divided into factions that they cannot elect a board consisting of an uneven number.

(3) There is internal dissension and two or more factions of members in the corporation are so deadlocked that its activities can no longer be conducted with advantage.

(4) When during any four-year period or when all voting power has been exercised at two consecutive meetings or in two written ballots for the election of directors, whichever period is shorter, the members have failed to elect successors to directors whose terms have expired or would have expired upon election of their successors.

(5) Those in control of the corporation have been guilty of or have knowingly countenanced persistent and pervasive fraud, mismanagement or abuse of authority or persistent unfairness toward any member or the corporation's property is being misapplied or wasted by its directors or officers.

(6) In the case of any corporation with 35 or fewer members, liquidation is reasonably necessary for the protection of the rights or interests of a complaining member or members.

(7) The period for which the corporation was formed has terminated without extension of such period.

(8) The corporation is required to dissolve under the terms of any article provision adopted pursuant to subdivision (a), paragraph (4), clause (i) of Section 7132

(c) At any time prior to the trial of the action any member or creditor may intervene therein.

(d) This section does not apply to any corporation subject to:

(1) The Public Utilities Act (Part 1 (commencing with Section 201) of Division 1 of the Public Utilities Code) unless an order is obtained from the Public Utilities Commission authorizing the corporation either (a) to dispose of its assets as provided in Section 851 of the Public Utilities Code or (b) to dissolve.

(2) The provisions of Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 of the Insurance Code when the application authorized by Section 1011 of the Insurance Code has been filed by the Insurance Commissioner unless the consent of the Insurance Commissioner has been obtained.

(e) In the case of a corporation holding assets in charitable trust at the time of the filing of the complaint pursuant to subdivision (a), a copy thereof shall be served on the Attorney General who may intervene.

SEC. 123. Section 8610 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8610. (a) Any corporation may elect voluntarily to wind up and dissolve by the vote of its members representing at least a majority

of its voting power.

(b) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve.

(1) A corporation which has been adjudicated as bankrupt.

(2) A corporation which has disposed of all of its assets and has not conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation.

(3) A corporation which has no members.

(4) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subdivision (a), paragraph (4), clause (i) of Section 7132.

SEC. 124. Section 8611 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8611 (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed A copy of such certificate shall be filed with the Attorney General if the corporation holds assets in charitable trust or has a charitable dissolution clause.

(b) The certificate shall be an officers certificate or shall be signed and verified by at least a majority of the directors then in office or by one or more members authorized to do so by a vote representing at least a majority of the voting power and shall set forth:

(1) That the corporation has elected to wind up and dissolve.

(2) If the election was made by the vote of members alone, the number of votes for the election and that the election was made by persons holding at least a majority of the voting power.

(3) If the certificate is executed by a member or members that the subscribing person or persons were authorized to execute the certificate by persons representing at least a majority of the voting power

(4) If the election was made by the board pursuant to subdivision (b) of Section 8610, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in such subdivision.

SEC 125. Section 8617 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

8617. (a) The board, in lieu of filing the certificate of dissolution, may petition the superior court of the proper county for an order declaring the corporation duly wound up and dissolved. Such petition shall be filed in the name of the corporation.

(b) Upon the filing of the petition, the court shall make an order requiring all interested persons, including the Attorney General in the case of a corporation holding assets in charitable trust, to show cause why an order shall not be made declaring the corporation duly wound up and dissolved and shall direct that the order be served by notice to all creditors, claimants, and members in the same manner as the notice given under subdivision (b) of Section 8517

(c) Any person claiming to be interested as member, creditor or otherwise may appear in the proceeding at any time before the expiration of 30 days from the completion of publication of the order to show cause and contest the petition, and upon failure to appear such person's claim shall be barred.

(d) Thereafter an order shall be entered and filed and have the effect as prescribed in Sections 8518 and 8519.

SEC. 126. Section 8710 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8710. The powers and duties of the directors (or other persons appointed by the court pursuant to Section 8515) and officers after commencement of a dissolution proceeding include, but are not limited to, the following acts in the name and on behalf of the corporation:

(a) To elect officers and to employ agents and attorneys to liquidate or wind up its affairs.

(b) To continue the conduct of the affairs of the corporation insofar as necessary for the disposal or winding up thereof.

(c) To carry out contracts and collect, pay, compromise and settle debts and claims for or against the corporation.

(d) To defend suits brought against the corporation.

(e) To sue, in the name of the corporation, for all sums due or owing to the corporation or to recover any of its property.

(f) To collect any amounts remaining unpaid on memberships or to recover unlawful distributions.

(g) To sell at public or private sale, exchange, convey or otherwise dispose of all or any part of the assets of the corporation for an amount deemed reasonable by the board without compliance with the provisions of Section 7911 and to execute bills of sale and deeds of conveyance in the name of the corporation.

(h) In general, to make contracts and to do any and all things in the name of the corporation which may be proper or convenient for the purposes of winding up, settling and liquidating the affairs of the corporation.

SEC. 127 Section 8714 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8714. The payment of a debt or liability, whether the whereabouts of the creditor is known or unknown, has been adequately provided for if the payment has been provided for by either of the following means·

(a) Payment thereof has been assumed or guaranteed in good faith by one or more financially responsible persons or by the United States government or any agency thereof, and the provision (including the financial responsibility of such persons) was determined in good faith and with reasonable care by the board to be adequate at the time of any distribution of the assets by the board pursuant to this chapter

(b) The amount of the debt or liability has been deposited as provided in Section 8720

This section does not prescribe the exclusive means of making adequate provision for debts and liabilities.

SEC 127.5. Section 8719 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

8719 (a) If a corporation in process of winding up has more than one class of memberships outstanding, a plan of distribution of the memberships, obligations or securities of any other corporation, domestic or foreign, or assets other than money which is not in accordance with the liquidation rights of any class or classes as specified in the articles or bylaws may nevertheless be adopted if approved by (1) the board and (2) by approval by the members (Section 5034) of each class. The plan may provide that such distribution is in complete or partial satisfaction of the rights of any of such members upon distribution and liquidation of the assets.

(b) A plan of distribution so approved shall be binding upon all the members. The board shall cause notice of the adoption of the plan to be given by mail within 20 days after its adoption to all holders of memberships having a liquidation preference.

SEC. 128. Section 8721 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

8721 (a) Whenever in the process of winding up a corporation any distribution of assets has been made, otherwise than under an order of court, without prior payment or adequate provision for payment of any of the debts and liabilities of the corporation, any amount so improperly distributed to any person may be recovered by the corporation. Any of such persons may be joined as defendants in the same action or be brought in on the motion of any other defendant.

(b) Suit may be brought in the name of the corporation to enforce the liability under subdivision (a) against any or all persons receiving the distribution by any one or more creditors of the corporation, whether or not they have reduced their claims to judgment.

(c) Members who satisfy any liability under this section shall have the right of ratable contribution from other distributees similarly liable Any member who has been compelled to return to the corporation more than the member's ratable share of the amount needed to pay the debts and liabilities of the corporation may require that the corporation recover from any or all of the other distributees such proportion of the amounts received by them upon the improper distribution as to give contribution to those held liable under this section and make the distribution of the assets fair and ratable, according to the respective rights and preferences of the memberships, after payment or adequate provision for payment of all the debts and liabilities of the corporation

(d) As used in this section, "process of winding up" includes proceedings under Chapters 15 (commencing with Section 8510) and 16 (commencing with Section 8610) and also any other distribution of assets to persons made in contemplation of termination or abandonment of the corporate business.

SEC. 128.3. Section 8724 is added to the Corporations Code, to read:

8724. Without the approval of 100 percent of the members, any contrary provision in this part or the articles or bylaws notwithstanding, so long as there is any lot, parcel, area, apartment or unit for which an owners association (as defined in Section 11003.1 of the Business and Professions Code and created in connection with any of the forms of development referred to in Section 11004.5 of the Business and Professions Code) is obligated to provide management, maintenance, preservation or control:

(a) The owners association or any person acting on its behalf shall not:

(1) Transfer all or substantially all of its assets; or

(2) File a certificate of dissolution; and

(b) No court shall enter an order declaring the owners association duly wound up and dissolved.

SEC. 128 7. Section 9121 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9121. (a) In the case of an existing unincorporated association, the association may change its status to that of a corporation upon a proper authorization for such by the association in accordance with its rules and procedures.

(b) In addition to the matters required to be set forth in the articles pursuant to Section 9130, the articles in the case of an incorporation authorized by subdivision (a) shall set forth that an existing unincorporated association, stating its name, is being incorporated by the filing of the articles.

(c) The articles filed pursuant to this section shall be accompanied by an affidavit of any two officers or governing board members of the association stating that the incorporation of the association by means of the articles to which the affidavit is attached has been approved by the association in accordance with its rules and procedures.

(d) Upon the change of status of an unincorporated association to a corporation pursuant to subdivision (a), the property of the association becomes the property of the corporation and the members of the association who had any voting rights of the type referred to in Section 5056 become members of the corporation.

(e) The filing for records in the office of the county recorder of any county in this state in which any of the real property of the association is located of a copy of the articles of incorporation filed pursuant to this section, certified by the Secretary of State, shall evidence record ownership in the corporation of all interests of the association in and to the real property located in that county.

(f) All rights of creditors and all liens upon the property of the association shall be preserved unimpaired. Any action or proceeding pending by or against the unincorporated association may be prosecuted to judgment, which shall bind the corporation, or the corporation may be proceeded against or substituted in its place

(g) If a corporation is organized by a person who is or was an

officer, director or member of an unincorporated association and such corporation is not organized pursuant to subdivision (a), the unincorporated association may continue to use its name and the corporation may not use a name which is the same as or similar to the name of the unincorporated association.

SEC. 129. Section 9130 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9130. The articles of incorporation of a corporation formed under this part shall set forth:

(a) The name of the corporation.

(b) The following statement:

"This corporation is a religious corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Religious Corporation Law (primarily or exclusively [insert one or both]) for religious purposes." [The articles may include a further description of the corporation's purposes.]

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 6210 (made applicable pursuant to Section 9660).

SEC. 130. Section 9132 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (2), clause (i), of this section, or, in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 16 (commencing with Section 6610) and 17 (commencing with Section 6710) (made applicable pursuant to Section 9680) shall be distributed to the head organization.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(3) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote

(4) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws.

SEC. 131. Section 9134 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9134. If initial directors have not been named in the articles, the incorporator or incorporators, until the directors are elected, may do whatever is necessary and proper to perfect the organization of the corporation, including the adoption and amendment of bylaws of the corporation and the election of directors and officers.

SEC. 132. Section 9140 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9140. Subject to any limitations contained in the articles or bylaws and to compliance with other provisions of this division and any other applicable laws, a corporation, in carrying out its activities, shall have all of the powers of a natural person, including, without limitation, the power to:

(a) Adopt, use, and at will alter a corporate seal, but failure to affix a seal does not affect the validity of any instrument.

(b) Adopt, amend, and repeal bylaws.

(c) Qualify to conduct its activities in any other state, territory, dependency or foreign country.

(d) Issue, purchase, redeem, receive, take or otherwise acquire, own, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own bonds, debentures, notes and debt securities.

(e) Issue memberships.

(f) Pay pensions, and establish and carry out pension, deferred compensation, saving, thrift and other retirement, incentive and benefit plans, trusts, and provisions for any or all of its directors, officers, employees, and persons providing services to it or any of its subsidiary or related or associated corporations, and to indemnify and purchase and maintain insurance on behalf of any fiduciary of such plans, trusts, or provisions.

(g) Levy dues, assessments, and fees.

(h) Make donations for the public welfare or for community funds, hospital, charitable, educational, scientific, civic, religious or similar purposes.

(i) Assume obligations, enter into contracts, including contracts of guarantee or suretyship, incur liabilities, borrow or lend money or otherwise use its credit, and secure any of its obligations, contracts or liabilities by mortgage, pledge or other encumbrance of all or any part of its property and income.

(j) Participate with others in any partnership, joint venture or other association, transaction or arrangement of any kind whether or

not such participation involves sharing or delegation of control with or to others.

(k) Act as trustee under any trust incidental to the principal objects of the corporation, and receive, hold, administer, exchange, and expend funds and property subject to such trust.

(*l*) Carry on a business at a profit and apply any profit that results from the business activity to any activity in which it may lawfully engage.

(m) Pay the reasonable value of services rendered in this state to the corporation before January 1, 1975, and not previously paid, by any person who performed such services on a full-time basis under the direction of a religious organization in connection with the religious tenets of the organization. Such person shall have relied solely on the religious organization for his or her financial support for a minimum of five years. A payment shall not be made if such person or religious organization waives the payment or receipt of compensation for such services in writing. Payment may be made to such religious organization to reimburse it for maintenance of any person who rendered such services and to assist it in providing future support and maintenance, however, payment shall not be made from any funds or assets acquired with funds donated by or traceable to gifts made to the corporation by any person, organization or governmental agency other than the members, immediate families of members and affiliated religious organizations of the religious organization under whose direction the services were performed.

SEC. 133. Section 9141 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9141. Subject to Section 9142:

(a) No limitation upon the activities, purposes, or powers of the corporation or upon the powers of the members, officers, or directors, or the manner of exercise of such powers, contained in or implied by the articles or by Chapters 16 (commencing with Section 6610), and 17 (commencing with Section 6710) (made applicable pursuant to Section 9680) shall be asserted as between the corporation or member, officer or director and any third person, except in a proceeding: (1) by the authorized number of members (Section 5036), by any person authorized by the articles or bylaws to bring an action, or by the state to enjoin the doing or continuation of unauthorized activities by the corporation or its officers, or both, in cases where third parties have not acquired rights thereby, or (2) by the authorized number of members (Section 5036), by any person authorized by the articles or bylaws to bring an action, by any member suing in a representative suit, or by the corporation, against the officers or directors of the corporation for violation of their authority

(b) Any contract or conveyance made in the name of a corporation which is authorized or ratified by the board or is done within the scope of authority, actual or apparent, conferred by the board or within the agency power of the officer executing it, except

as the board's authority is limited by law other than this part, binds the corporation, and the corporation acquires rights thereunder whether the contract is executed or wholly or in part executory.

SEC. 133.5. Section 9142 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9142. (a) Notwithstanding Section 9141, any of the following may bring an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of a trust under which any or all of the assets of a corporation are held:

(1) The corporation.

(2) An officer of the corporation.

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in the assets subject to such trust.

(b) In an action under this section, the court may not rescind or enjoin the performance of a contract unless:

(1) All of the parties to the contract are parties to the action;

(2) No party to the contract has, in good faith and without actual notice of the restriction, parted with value under the contract or in reliance upon it; and

(3) It is equitable to do so

SEC. 134. Section 9150 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9150. (a) "Bylaws," as used in this part means the code or codes of rules used, adopted, or recognized for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(b) Bylaws may be adopted, amended or repealed as provided in the articles or bylaws and absent any provision, bylaws may be adopted, amended or repealed by approval of the members (Section 5034) or the board, except as provided in subdivision (c). The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws subject to subdivision (e) of Section 9151.

(c) Subject to any provision in the articles or bylaws, the power of the board to adopt, amend or repeal bylaws is subject to the powers of members set forth in Section 9151.

SEC. 135. Section 9151 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9151. (a) The bylaws shall set forth (unless such provision is contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 9151. The number of directors may be one or more

(b) Except as otherwise provided in the articles or bylaws, once

members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members.

(e) The bylaws may require, for any or all corporate actions (except as provided in Section 9222 and subdivision (b) of Section 9680), the vote of a larger proportion of, or all of, the members or the members of any class, unit, or grouping of members, or the vote of a larger proportion of, or all of, the directors than is otherwise required by this part Such a provision in the bylaws requiring such greater vote shall not be altered, amended or repealed except by such greater vote, unless otherwise provided in the bylaws.

(f) The bylaws may contain a provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

SEC. 135 3. Section 9153 is added to the Corporations Code, to read:

9153. A corporation may provide in its bylaws for voting by its members or delegates on the basis of chapter or other organizational unit, or by region or other geographic grouping.

SEC. 135.7 Section 9210 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9210. Subject to the provisions of this part and any provision in the articles or bylaws: (a) The activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board.

(b) The board may delegate the management of the activities of the corporation to any person or persons provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

SEC. 136 Section 9211 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9211 (a) Unless otherwise provided in the articles or in the bylaws.

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone or telegraph. The articles or bylaws may not dispense with notice of a special meeting A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the

board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business.

(8) Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as the unanimous vote of such directors.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis.

SEC. 137. Section 9212 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9212. (a) The board may, by resolution adopted by a majority of the number of directors then in office, provided that a quorum is present, create one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Appointments to such committees shall be by a majority vote of the directors then in office, unless the articles or bylaws require a majority vote of the number of directors authorized in the articles or bylaws. The bylaws

may authorize one or more committees, each consisting of two or more directors, and may provide that a specified officer or officers who are also directors of the corporation shall be a member or members of such committee or committees. The board may appoint one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. Any such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to:

(1) The approval of any action for which this part also requires approval of the members (Section 5034) or approval of a majority of all members (Section 5033).

(2) The filling of vacancies on the board or in any committee which has the authority of the board.

(3) The fixing of compensation of the directors for serving on the board or on any committee.

(4) The amendment or repeal of bylaws or the adoption of new bylaws

(5) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(6) The appointment of committees of the board or the members thereof.

(b) Subdivision (a) shall not apply to any committee which does not exercise the authority of the board.

(c) Unless the bylaws otherwise provide, the board may delegate to any committee powers as authorized by Section 9210, but may not delegate the powers set forth in paragraphs (1) through (6) of subdivision (a) of this section.

SEC. 138. Section 9225 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9225. (a) Except as otherwise provided in the articles or bylaws, if the directors are equally divided so that there is danger that the property of the corporation will be impaired or lost, the superior court of the proper county may appoint a provisional director pursuant to this section. Action for such appointment may be brought by any director or by members holding not less than 33⅓ percent of the voting power.

(b) A provisional director shall be an impartial person. A provisional director shall have all the rights and powers of a director until such provisional director is removed by order of the court or by approval of a majority of all members (Section 5033). Such person shall be entitled to such compensation as shall be fixed by the court unless otherwise agreed with the corporation.

SEC 139 Section 9310 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

9310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members In the absence of any provision in its articles or bylaws providing for members, a corporation shall

have no members

(b) Subject to the articles or bylaws, in the case of a corporation which has no members:

(1) Any action which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board

(2) All rights which would otherwise vest under this part in the members shall vest in the directors.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

SEC 140 Section 9311 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9311 Subject to the articles or bylaws, memberships may be issued by a corporation for no consideration or for such consideration as is determined by the board.

SEC 141. Section 9312 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9312 No person may hold more than one membership, and no fractional memberships may be held, provided, however, that:

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in such manner or under the circumstances prescribed by, the articles or bylaws; and

(b) If the articles or bylaws provide for classes of membership in which the differences are not merely the number of votes entitled to be cast by members of the class, and if the articles or bylaws permit a person to be a member of more than one class, a person may hold a membership in one or more classes

SEC. 142. Section 9330 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read.

9330 A corporation may issue memberships having different rights, privileges, preferences, restrictions, or conditions, as authorized by its articles or bylaws.

SEC 143 Section 9331 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9331 Except as provided in or authorized by the articles or bylaws, all memberships shall have the same rights, privileges, preferences, restrictions, and conditions

SEC. 144. Section 9332 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

9332 (a) A corporation may refer to persons associated with it as "members" even though such persons are not members within the meaning of Section 5056, but references to members in this part mean members as defined in Section 5056

(b) A corporation may benefit, serve, or assist persons who are not members within the meaning of Section 5056 for such consideration, if any, as the board may determine or as is authorized or provided for in the articles or bylaws

SEC 144 3 Section 9340 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read

9340. (a) A member may resign from membership at any time.

(b) This section shall not relieve the resigning member from any obligation for charges incurred, services or benefits actually rendered, dues, assessments or fees, or arising from contract or otherwise, and this section shall not diminish any right of the corporation to enforce any such obligation or obtain damages for its breach.

(c) Except as provided in subdivision (b) of Section 9320 or in subdivision (a) of this section, a membership issued for a period of time shall expire when such period of time has elapsed unless the membership is renewed.

(d) A membership may be terminated as provided in the articles or bylaws of the corporation.

SEC 144.7. Section 9410 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9410. (a) The articles or bylaws may provide any reasonable method of calling, noticing, and holding general or special meetings of members or obtaining approval of members (Section 5034) or approval of a majority of members (Section 5033), provided that the provisions of this chapter shall apply to any such general or special meeting or approval in the absence of a contrary provision in the articles or bylaws.

(b) Anything in subdivision (a) to the contrary notwithstanding, the articles or bylaws may not vary the provisions of subdivision (e) of Section 9411, subdivisions (b), (c) and (d) of Section 9412 (if written ballots are authorized); Section 9414; subdivisions (d) and (e) of Section 9417 (if proxies are authorized), or Section 9418.

SEC. 145 Section 9412 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9412. (a) A majority of the voting power, represented in person, by written ballot, or by proxy, shall constitute a quorum at a meeting of members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members.

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given to the members at least 10 days before the meeting.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may

be transacted, except as provided in subdivision (c)

SEC. 145 2. Section 9413 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9413 (a) Any action which may be taken at any regular or special meeting of members may be taken without a meeting if the written ballot of every member is solicited, if the required number of signed approvals in writing, setting forth the action so taken, is received, and if the requirements of subdivision (c) are satisfied.

(b) All solicitations of ballots shall indicate the time by which the ballot must be returned to be counted.

(c) Approval by written ballot pursuant to this section shall be valid only when the number of ballots cast on or before the time the ballot must be returned to be counted equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of ballots cast.

(d) A written ballot may not be revoked.

SEC. 145 3 Section 9414 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9414. (a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates or directors, or otherwise obtain their consent, in the manner prescribed by its articles or bylaws, or this part, then the superior court of the proper county, upon petition of a director, officer, delegate, member or the Attorney General, may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates or directors be authorized, in such a manner as the court finds fair and equitable under the circumstances

(b) The court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all parties who would be entitled to notice of a meeting held pursuant to the articles, bylaws and this part, whether or not the method results in actual notice to every such person, or conforms to the notice requirements that would otherwise apply In a proceeding under this section the court may determine who the members or directors are

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of and voting at meetings or obtaining of votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or this part

(d) Wherever practical any order issued pursuant to this section shall limit the subject matter of the meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section, provided, however, that an order under this section may also

authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, sale of assets or reorganization of the corporation.

(e) Any meeting or other method of obtaining the vote of members, delegates or directors conducted pursuant to an order issued under this section, and which complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws and this part.

SEC. 145.7. Section 9419 is added to the Corporations Code, to read:

9419. In the absence of fraud, any election, appointment or removal of a director is conclusively presumed valid nine months thereafter if the only defect in the election, appointment or removal is the failure to give notice as provided in this part or in the corporation's articles or bylaws.

SEC. 146. Section 9511 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read·

9511. Except as otherwise provided in the articles or bylaws, a member may inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation for a purpose reasonably related to the member's interest as a member.

SEC. 147. Section 9514 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9514. (a) Upon refusal of a lawful demand for inspection under this chapter, the superior court of the proper county, or the county where the books or records in question are kept, may enforce the demand or right of inspection with just and proper conditions or may, for good cause shown, appoint one or more competent inspectors or independent accountants to audit the financial statements kept in this state and investigate the property and funds of any corporation and of any subsidiary corporation thereof, domestic or foreign, keeping records in this state and to report thereon in such manner as the court may direct.

(b) All officers and agents of the corporation shall produce to the inspectors or accountants so appointed all books and documents in their custody or power, under penalty of punishment for contempt of court.

(c) All expenses of the investigation or audit shall be defrayed by the applicant unless the court orders them to be paid or shared by the corporation.

SEC. 147 5 Section 9620 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9620. (a) The provisions of Chapter 8 (commencing with Section 5810) of Part 2 apply to religious corporations except for Sections 5813.5 and 5818

(b) A corporation formed for a limited period may at any time subsequent to the expiration of the term of its corporate existence,

extend the term of its existence by an amendment to its articles removing any provision limiting the term of its existence and providing for perpetual existence. If the filing of the certificate of amendment providing for perpetual existence would be prohibited if it were original articles by the provisions of Section 9122 the Secretary of State shall not file such certificate unless, by the same or a concurrently filed certificate of amendment, the articles of such corporation are amended to adopt a new available name. For the purpose of the adoption of any such amendment, persons who have been functioning as directors of such corporation shall be considered to have been validly elected even though their election may have occurred after the expiration of the original term of the corporate existence.

SEC 148. Section 9630 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9630. Any mortgage, deed of trust, pledge or other hypothecation of all or any part of the corporation's property, real or personal, for the purpose of securing the payment or performance of any contract or obligation may be approved by the board. Unless the articles or bylaws otherwise provide, no approval of the members (Section 5034) or of any other person or persons shall be necessary for such action

SEC 148 3. Section 9631 is added to the Corporations Code, to read·

9631. (a) Subject to the provisions of Section 9142, a corporation may sell, lease, convey, exchange, transfer or otherwise dispose of all or substantially all of its assets when the principal terms are·

(1) Approved by the board; and

(2) Unless the transaction is in the usual and regular course of its activities, approved by the members (Section 5034) and by any other person or persons whose approval is required by the articles or bylaws either before or after approval by the board and before or after the transaction.

(b) Subject to any provision in the articles or bylaws, the board may, notwithstanding approval by the members (Section 5034) or such other person, abandon the proposed transaction without further action by the members, subject to the contractual rights, if any, of third parties

(c) Subject to the provisions of Section 9142, such sale, lease, conveyance, exchange, transfer or other disposition may be made upon such terms and conditions and for such consideration as the board may deem in the best interests of the corporation The consideration may be money, property, or securities of any domestic or foreign corporation

SEC 148 5. Section 9632 is added to the Corporations Code, to read

9632 Any deed or instrument conveying or otherwise transferring any assets of a corporation may have annexed to it the certificate of the secretary or an assistant secretary of the

corporation, setting forth that the transaction has been validly approved by the board, that the notice, if any, required by Section 9633 has been given and (a) stating that the property described in such deed or instrument is less than substantially all of the assets of the corporation or that the transfer is in the usual and regular course of the business of the corporation, if such be the case, or (b) if such property constitutes all or substantially all of the assets of the corporation and the transfer is not in the usual and regular course of the business of the corporation, stating the fact of approval thereof by the members (Section 5034). Such certificate is prima facie evidence of the existence of the facts authorizing such conveyance or other transfer of the assets and conclusive evidence in favor of any purchaser or encumbrancer for value who, without notice of any trust restriction applicable to the property or any failure to comply therewith, in good faith parted with value.

SEC. 148.7. Section 9633 is added to the Corporations Code, to read:

9633. A corporation must give written notice to the Attorney General 20 days before it sells, leases, conveys, exchanges, transfers or otherwise disposes of all or substantially all of its assets unless the Attorney General has given the corporation a written waiver of this section as to the proposed transaction.

SEC. 149 Section 9640 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9640. (a) The provisions of Chapter 10 (commencing with Section 6010) of Part 2 apply to religious corporations except subdivision (a) of Section 6010 and Sections 6011 and 6012

(b) Without the prior written consent of the Attorney General, a religious corporation may only merge with another religious corporation or with a public benefit corporation or a foreign nonprofit corporation the articles of which provide that its assets are irrevocably dedicated to charitable, religious or public purposes

(c) The principal terms of the merger shall be approved by the board and by the members (Section 5034) of each class of each corporation which desires to merge and by each other person or persons whose approval of an amendment of articles is required by the articles or bylaws; and the approval by the members (Section 5034) or such other person or persons required by this section may be given before or after the approval by the board.

(d) The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons may be parties to the agreement of merger. The agreement shall state:

(1) The terms and conditions of the merger;

(2) The amendments, subject to Sections 5810 and 5816, to the articles of the surviving corporation to be effected by the merger, if any, if any amendment changes the name of the surviving corporation, the new name may be the same as or similar to the name of a disappearing corporation, subject to subdivision (b) of Section

9122.

(3) The amendments to the bylaws of the surviving corporation to be effected by the merger, if any;

(4) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation;

(5) The manner, if any, of converting memberships of the constituent corporations into memberships of the surviving corporation; and

(6) Such other details or provisions as are desired, if any.

SEC. 150. Section 9650 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9650. Any proceeding, initiated with respect to a corporation, under any applicable statute of the United States, as now existing or hereafter enacted, relating to reorganizations or arrangements of corporations, shall be governed by the provisions of Chapter 14 (commencing with Section 1400) of Division 1 of Title 1, and for this purpose the reference in Chapter 14 to "shareholders" shall be deemed to be a reference to members and the reference to "this division" shall be deemed to be a reference to this part.

SEC. 151. Section 9680 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9680. (a) The provisions of Chapters 16 (commencing with Section 6610) and 17 (commencing with Section 6710) of Part 2 apply to religious corporations except for Sections 6610, 6614, 6710, 6711 and 6716.

(b) (1) Any corporation may elect voluntarily to wind up and dissolve (i) by the vote of a majority of all the members (Section 5033) or (ii) by approval of the board and approval of the members (Section 5034).

(2) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve:

(i) A corporation which has been adjudicated a bankrupt.

(ii) A corporation which has disposed of all its assets and has not conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation.

(iii) A corporation which has no members.

(iv) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subdivision (a), paragraph (2), clause (i), of Section 9132.

(c) If a corporation is in the process of voluntary winding up, the superior court of the proper county, upon the petition of (1) the corporation, or (2) the authorized number (Section 5036), or (3) the Attorney General, or (4) three or more creditors, and upon such notice to the corporation and members and creditors as the court may order, may take jurisdiction over such voluntary winding up proceeding if that appears necessary for the protection of the assets

of the corporation. The court, if it assumes jurisdiction, may make such orders as to any and all matters concerning the winding up of the affairs of the corporation and the protection of its creditors and its assets as justice and equity may require. The provisions of Chapter 15 (commencing with Section 6510) (except Sections 6510 and 6511) shall apply to such court proceedings.

(d) The powers and duties of the directors (or other persons appointed by the court pursuant to Section 6515) and officers after commencement of a dissolution proceeding include, but are not limited to, the following acts in the name and on behalf of the corporation:

(1) To elect officers and to employ agents and attorneys to liquidate or wind up its affairs.

(2) To continue the conduct of the affairs of the corporation insofar as necessary for the disposal or winding up thereof.

(3) To carry out contracts and collect, pay, compromise and settle debts and claims for or against the corporation.

(4) To defend suits brought against the corporation.

(5) To sue, in the name of the corporation, for all sums due or owing to the corporation or to recover any of its property.

(6) To collect any amounts remaining unpaid on memberships or to recover unlawful distributions.

(7) Subject to the provisions of Section 9142, to sell at public or private sale, exchange, convey or otherwise dispose of all or any part of the assets of the corporation in an amount deemed reasonable by the board without compliance with the provisions of subdivision (b) of Section 9630, and to execute bills of sale and deeds of conveyance in the name of the corporation.

(8) In general, to make contracts and to do any and all things in the name of the corporation which may be proper or convenient for the purposes of winding up, settling and liquidating the affairs of the corporation.

(e) After complying with the provisions of Section 6713·

(1) Except as provided in Section 6715, all of a corporation's assets shall be disposed of on dissolution in conformity with its articles or bylaws subject to complying with the provisions of any trust under which such assets are held.

(2) Except as provided in subdivision (3), the disposition required in subdivision (1) shall be made by decree of the superior court of the proper county. The decree shall be made upon petition therefor, upon 30 days' notice to the Attorney General, by any person concerned in the dissolution.

(3) The disposition required in subdivision (1) may be made without the decree of the superior court, subject to the rights of persons concerned in the dissolution, if the Attorney General makes a written waiver of objections to the disposition.

(f) A vacancy on the board may be filled during a winding up proceeding in the manner provided in Section 9224

(g) The provisions of Chapter 15 (commencing with Section

6510) shall not be applicable to religious corporations except to the extent they are applicable under subdivision (d) of Section 6617, subdivision (c) of Section 6719, or subdivision (c) or (d) of this section.

SEC. 152. Section 9912 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9912. (a) Each corporation which is subject (pursuant to the terms of the prior nonprofit law or some other specific statutory provision) to the prior nonprofit law shall, on and after January 1, 1980, be subject to the new public benefit corporation law, the new mutual benefit corporation law, or the new religious corporation law based on the following:

(1) Any corporation of a type designated by statute as being subject to the new public benefit corporation law, the new mutual benefit corporation law, or the new religious corporation law, shall be subject to such law

(2) Any corporation organized primarily or exclusively for religious purposes shall be subject to the new religious corporation law

(3) Any corporation which does not come within paragraphs 1 or 2 of this subdivision but which has received an exemption under Section 23701d of the Revenue and Taxation Code, shall be subject to the new public benefit corporation law

(4) Any corporation which does not come within paragraphs 1, 2, or 3 of this subdivision and all of the assets of which are irrevocably dedicated to charitable or public purposes and which according to its articles or bylaws must upon dissolution distribute its assets to a person or persons carrying on a similar purpose or purposes shall be subject to the new public benefit corporation law.

(5) Any corporation which does not come within paragraphs 1, 2, 3 or 4 of this subdivision and which permits distribution of assets to its members upon dissolution shall be subject to the new mutual benefit corporation law.

(6) Any corporation not otherwise described in this subdivision shall be subject to the new mutual benefit corporation law.

(b) Prior to January 1, 1980, the Secretary of State's office shall send a nonbinding, advisory notice to each corporation covered by subdivision (a) indicating the type of corporation it is, based on the rules set forth in subdivision (a) of this section

(c) Notwithstanding subdivision (a), assets held by a mutual benefit corporation in charitable trust shall be administered in compliance with the provisions of the trust and in accordance with any standards applicable pursuant to Section 7238

(d) A corporation may petition the superior court of the proper county to determine its status as a public benefit, mutual benefit or religious corporation in accordance with subdivision (a) Notice of the proceeding shall be given as the court may direct Any member may intervene. Notice of the proceeding shall be served on the Attorney General who may intervene. A certified copy of any final

judgment in any such proceeding shall be filed with the Secretary of State

(e) The Secretary of State may, in carrying out any obligation arising under this article, require any information necessary on existing corporations from the Franchise Tax Board or other state agency

SEC. 153. Section 9913 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is amended to read:

9913 (a) The provisions of Sections 5130, 5131 and 5132 of the new public benefit corporation law relating to the contents of articles of incorporation do not apply to subject corporations designated as public benefit corporations unless and until an amendment of the articles is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part

(b) The provisions of subdivisions (a) and (b) of Section 7130 and Sections 7131 and 7132 of the new mutual benefit corporation law relating to the contents of articles of incorporation do not apply to subject corporations governed by the mutual benefit corporation law unless and until an amendment of the articles of incorporation is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part

(c) The provisions of Sections 9130, 9131, and 9132 of the new religious corporation law relating to the contents of articles of incorporation do not apply to subject corporations governed by the religious corporation law unless and until an amendment of the articles is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part

(d) The amendment described in subdivision (a) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the public benefit corporation to Section 5130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement to Section 5151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made.

(e) The amendment described in subdivision (b) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the mutual benefit corporation to subdivisions (a) and (b) of Section 7130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement to Section 7151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made

(f) The amendment described in subdivision (c) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the religious corporation to Section 9130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement to Section 9151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made.

SEC 154. Section 9919 of the Corporations Code, as added by Chapter 567 of the Statutes of 1978, is repealed

SEC 155. Section 10824 of the Corporations Code, as added by Chapter 1305 of the Statutes of 1978, is amended to read

10824. (a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction to which the corporation is a party and in which one or more directors has a material financial interest. Such a director is an "interested director" for the purpose of this section.

(b) The provisions of this section do not apply to any of the following·

(1) An action of the board fixing the compensation of a director as a director or officer of the corporation.

(2) A transaction which is part of a public or charitable program of the corporation if it: (i) is approved or authorized by the corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public or charitable program

(3) A transaction, of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of one percent of the gross receipts of the corporation for the preceding fiscal year or one hundred thousand dollars ($100,000).

(c) The Commissioner of Corporations, or if the Commissioner of Corporations is joined as an indispensable party, any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h)

(1) The corporation, or a member asserting the right in the name of the corporation pursuant to Section 5710,

(2) A director of the corporation; or

(3) An officer of the corporation;

(4) Notice of such action shall be given to the Attorney General who may intervene.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if·

(1) The Commissioner of Corporations or the court in an action in which the Attorney General is an indispensable party has approved the transaction before or after it was consummated; or

(2) The person asserting the validity of the transaction sustains the burden of proving that

(A) The corporation entered into the transaction for its own benefit,

(B) The transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction. Except as provided in paragraph (3) of this subdivision, action by a committee of the board shall not satisfy this paragraph; and

(D) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or the corporation in fact could not have obtained a more advantageous arrangement with reasonable effort under the circumstances, or

(3) The person asserting the validity of the transaction sustains the burden of proving that:

(A) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in paragraph (2) of this subdivision;

(B) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(C) The board, after determining in good faith that the conditions of subparagraphs (A) and (B) of this paragraph were satisfied, ratified the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

(e) Except as provided in subdivision (f), an action under subdivision (c) must be filed within two years after written notice setting forth the material facts of the transaction and the director's interest in the transaction is filed with the Commissioner of Corporations in accordance with such regulations, if any, as the Commissioner of Corporations may adopt or if no such notice is filed, 10 years after the cause of action has accrued.

(f) In any action for breach of an obligation of the corporation owed to an interested director, where the obligation arises from a self-dealing transaction which has not been approved as provided in subdivision (d), the court may, by way of offset only, make any order authorized by subdivision (h), notwithstanding the expiration of the applicable period specified in subdivision (e).

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction.

(h) If a self-dealing transaction which has not been approved as provided in subdivision (d) has taken place, the interested director

or directors shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation taking into account any benefit received by the corporation and whether the interested director or directors acted in good faith and with intent to further the best interest of the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transaction; and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate. The court may award prejudgment interest to the extent allowed in Section 3287 or 3288 of the Civil Code. In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section.

SEC. 156. Section 12205 of the Corporations Code, as added by Chapter 1305 of the Statutes of 1978, is amended to read:

12205. (a) Until December 31, 1980, the provisions of the General Nonprofit Corporation Law (Part 1 (commencing with Section 9000) of Division 2) in effect on December 31, 1979, apply to cooperative corporations formed under this part, except where such provisions are in conflict with those of this part

(b) On and after January 1, 1981, the provisons of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of this title) apply to cooperative corporations formed under this part, except where such provisions are in conflict with those of this part.

(c) Corporations formed under this part have and enjoy all rights, powers, and privileges granted generally to corporations by the laws of this state, except as may be inconsistent with the provisions of this part.

SEC. 157. Section 12203.7 of the Government Code, as added by Chapter 1305 of the Statutes of 1978, is amended to read:

12203.7. (a) The fee for filing a certificate of amendment changing the status of a nonprofit corporation into a business corporation is sixty-five dollars ($65).

(b) The fee for filing a plan of conversion of a business corporation into a nonprofit mutual benefit corporation is fifteen dollars ($15).

SEC. 158. This act shall become operative on January 1, 1980.

CHAPTER 725

An act to add Section 3015 to the Public Resources Code, relating to natural gas, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 3015 is added to the Public Resources Code, to read:

3015. For the purpose of implementing Section 503 of the Natural Gas Policy Act of 1978, the supervisor may make the determinations entrusted to state agencies having regulatory jurisdiction with respect to the production of natural gas. Such determinations shall be made pursuant to procedures prescribed in guidelines adopted by the supervisor.

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 there be no lapse in the period in which higher ceiling prices may be charged by sellers of natural gas pursuant to federal law, it is necessary that this act take effect immediately

---

CHAPTER 726

An act to add Division 4 (commencing with Section 1400) to, and Sections 2356, 2452, and 2628 to, and to repeal Division 4 (commencing with Section 1400) and Division 5 (commencing with Section 1701) of, the Probate Code, relating to guardianship, conservatorship, and other protective proceedings

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Division 4 (commencing with Section 1400) of the Probate Code is repealed.

SEC. 2. Division 5 (commencing with Section 1701) of the Probate Code is repealed

SEC 3 Division 4 (commencing with Section 1400) is added to the Probate Code, to read:

DIVISION 4. GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE PROCEEDINGS

PART 1. DEFINITIONS AND GENERAL PROVISIONS

CHAPTER 1. DEFINITIONS

1400. Unless the context otherwise requires, the words and phrases defined in this chapter govern the construction of this division.

1403. "Absentee" means either of the following:

(a) A member of a uniformed service covered by United States Code, Title 37, Chapter 10, who is determined thereunder by the secretary concerned, or by the authorized delegate thereof, to be in missing status as missing status is defined therein.

(b) An employee of the United States government or an agency thereof covered by United States Code, Title 5, Chapter 55, Subchapter VII, who is determined thereunder by the head of the department or agency concerned, or by the authorized delegate thereof, to be in missing status as missing status is defined therein

1406. "Account in an insured savings and loan association" means any of the following:

(a) Shares issued by a federal savings and loan association.

(b) Investment certificates issued by a state-chartered building and loan association or savings and loan association doing business in this state which is an "insured institution" as defined in Title IV of the National Housing Act.

(c) Shares issued by a state-chartered building and loan association or savings and loan association doing business in this state which does not issue investment certificates and which is an "insured institution" as defined in Title IV of the National Housing Act.

1418. "Court," when used in connection with matters in the guardianship or conservatorship proceeding, means the court in which such proceeding is pending.

1419. "Court investigator" means the person referred to in Section 1454.

1424. "Interested person" includes, but is not limited to:

(a) Any interested state, local, or federal entity or agency

(b) Any interested public officer or employee of this state or of a local public entity of this state or of the federal government.

1430. "Petition" includes an application or request in the nature of a petition.

1440. "Secretary concerned" has the same meaning as defined in United States Code, Title 37, Section 101

1443. "Shares of an insured credit union" means shares issued by a credit union, either federally chartered or state licensed, which are insured under Title II of the Federal Credit Union Act.

1446 "Single-premium deferred annuity" means an annuity offered by an admitted life insurer for the payment of a one-time

lump-sum premium and for which the insurer neither assesses any initial charges or administrative fees against the premium paid nor exacts or assesses any penalty for withdrawal of any funds by the annuitant after a period of five years.

CHAPTER 2. GENERAL PROVISIONS

1450. Except as otherwise specifically provided, all of the following shall be verified:

(a) A petition, report, or account filed pursuant to this division

(b) An objection or response filed pursuant to this division to a petition, report, or account.

1451 When a petition, report, or account which requires a hearing is filed with the clerk of the court pursuant to this division, the clerk shall set the matter for hearing.

1452. Except as otherwise specifically provided in this division, there is no right to trial by jury in proceedings under this division.

1453. A motion for a new trial may be made only in cases in which, under the provisions of this division, a right to jury trial is expressly granted, whether or not the case was tried by a jury.

1454. (a) The court shall appoint a court investigator when one is required for the purposes of a proceeding under this division. The person appointed as the court investigator shall be an officer or special appointee of the court with no personal or other beneficial interest in the proceeding.

(b) The person appointed as the court investigator shall have the following qualifications:

(1) The training or experience, or both, necessary (i) to make the investigations required under this division, (ii) to communicate with, assess, and deal with persons who are or may be the subject of proceedings under this division, and (iii) to perform the other duties required of a court investigator

(2) A demonstrated sufficient knowledge of law so as to be able to inform conservatees and proposed conservatees of the nature and effect of a conservatorship proceeding and of their rights, to answer their questions, and to inform conservators concerning their powers and duties

1455 The provisions of this division do not limit the power of any court to appoint a guardian ad litem to protect the interests of any person.

1456 The Judicial Council may prescribe the form of the applications, notices, orders, and other documents required by this division. Any such form prescribed by the Judicial Council is deemed to comply with this division

CHAPTER 3. NOTICES

1460 (a) Subject to Section 1462, if notice of hearing is required under this division but the applicable provision does not fix the

manner of giving notice of hearing, the notice of the time and place of the hearing shall be given at least 15 days before the day of the hearing as provided in this section.

(b) Subject to subdivision (e), the petitioner (which includes for the purposes of this section a person filing a petition, report, or account) shall cause the notice of hearing to be mailed to each of the following persons (other than the petitioner or persons joining in the petition):

(1) The guardian or conservator.

(2) The ward if 14 years of age or older or the conservatee.

(3) The spouse of the ward or conservatee, if the ward or conservatee has a spouse.

(4) Any interested person who has appeared in the particular matter to which the hearing relates.

(c) The clerk of the court shall cause the notice of the hearing to be posted at the courthouse of the county where the proceedings are pending if such posting is required by subdivision (c) of Section 2543 (sales).

(d) Nothing in this section excuses compliance with the requirements for notice to a person who has requested special notice pursuant to Chapter 10 (commencing with Section 2700) of Part 4.

(e) The court for good cause may dispense with the notice required to be given to a person under subdivision (b).

1461. (a) As used in this section, "director" means:

(1) The Director of Mental Health when the state hospital referred to in subdivision (b) is under the jurisdiction of the State Department of Mental Health.

(2) The Director of Developmental Services when the state hospital referred to in subdivision (b) is under the jurisdiction of the State Department of Developmental Services.

(b) Except where the petition, report, or account is filed by the director, notice of the time and place of hearing on the petition, report, or account, and a copy of the petition, report, or account, shall be mailed to the director at the director's office in Sacramento at least 15 days before the hearing if both of the following conditions exist:

(1) The ward or conservatee is or has been during the guardianship or conservatorship proceeding a patient in or on leave from a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services.

(2) The petition, report, or account is filed under any one or more of the following provisions: Section 1510, 1820, 1861, 2212, 2403, 2421, 2422, or 2423; Article 7 (commencing with Section 2540) of Chapter 6 of Part 4; Section 2580, 2592, 2620, or Chapter 3 (commencing with Section 3100) of Part 6.

(c) If the ward or conservatee has been discharged from the state hospital, the director, upon ascertaining the facts, may file with the court a certificate stating that the ward or conservatee is not

indebted to the state and waive the giving of further notices under this section. Upon the filing of the certificate of the director, compliance with this section thereafter is not required unless the certificate is revoked by the director and notice of the revocation is filed with the court.

(d) The statute of limitations does not run against any claim of the State Department of Mental Health or the State Department of Developmental Services against the estate of the ward or conservatee for board, care, maintenance, or transportation with respect to an account that is settled without giving the notice required by this section.

1462 (a) Except for the notice required by Section 1511 or 1822, the court may for good cause shorten the time for giving any notice required by this division.

(b) Where the court determines that the notice otherwise required under this division is insufficient in the particular circumstances, the court may require that further or additional notice, including a longer period of notice, be given.

1463 The court may continue or postpone any hearing, from time to time, in the interest of justice, and no further notice of the continued or postponed hearing is required unless otherwise ordered by the court.

1464. When notice of the time and place of hearing is required to be given by this chapter or by any other provision of this division, the notice shall be in the form prescribed by the Judicial Council or, if the Judicial Council has not prescribed an applicable form, in compliance with Section 1200.1.

1465. Unless otherwise expressly provided:

(a) If a notice or other paper is required or permitted to be mailed to a person pursuant to this division, it shall be sent by:

(1) First-class mail if the person's address is within the United States

(2) Airmail if the person's address is not within the United States.

(b) Mailing is complete under this division when the notice or other paper is deposited in the mail, postage prepaid, addressed to the person to whom it is mailed.

1466. If a notice or other paper is required or permitted to be mailed pursuant to this division (whether by first-class, airmail, certified, or registered mail), it may be delivered personally to the person to whom it is required or permitted to be mailed. Personal delivery as provided in this section is deemed to satisfy the provision that requires or permits the notice or other paper to be mailed.

1467. If service is made by mail pursuant to this division in the manner authorized in Section 415.30 of the Code of Civil Procedure, the service is complete on the date a written acknowledgment of receipt is executed.

1468 (a) Proof of the giving of notice under this division shall be made at or before the hearing to the satisfaction of the court. Such proof may be made by, but is not limited to, the following means:

(1) Proof of notice by personal delivery may be made by the affidavit of the person making such delivery showing the time and place of delivery and the name of the person to whom delivery was made

(2) Proof of mailing may be made in the manner prescribed in Section 1013a of the Code of Civil Procedure.

(3) Proof of posting may be made by the affidavit of the person who posted the notice

(4) Proof of publication may be made by the affidavit of the publisher or printer, or the foreman or principal clerk of the publisher or printer, showing the time and place of publication.

(5) Proof of notice, however given, may be made by testimonial evidence presented at the hearing.

(b) If it appears to the satisfaction of the court that notice has been regularly given or that the party entitled to notice has waived it, the court shall so find in its order, and such order when it becomes final is conclusive on all persons

1469 (a) When a provision of this division applies the provisions of this code applicable to executors or administrators to proceedings under this division, a reference to Section 1200 in the provisions applicable to executors or administrators shall be deemed to be a reference to this chapter.

(b) Section 1201 does not apply to proceedings under this division.

CHAPTER 4. APPOINTMENT OF LEGAL COUNSEL

1470. (a) The court may appoint private legal counsel for a ward, a proposed ward, a conservatee, or a proposed conservatee in any proceeding under this division if the court determines such person is not otherwise represented by legal counsel and that the appointment would be helpful to the resolution of the matter or is necessary to protect the person's interests.

(b) If a person is furnished legal counsel under this section, the court shall, upon conclusion of the matter, fix a reasonable sum for compensation and expenses of counsel.

(c) The court shall order the sum fixed under subdivision (b) to be paid:

(1) If the person for whom legal counsel is appointed is an adult, from the estate of such person.

(2) If the person for whom legal counsel is appointed is a minor, by a parent or the parents of the minor or from the minor's estate, or any combination thereof, in such proportions as the court deems just

(d) The court may make an order under subdivision (c) requiring payment by a parent or parents of the minor only after the parent or parents, as the case may be, have been given notice and the opportunity to be heard on whether the order would be just under the circumstances of the particular case.

1471 (a) If a conservatee, proposed conservatee, or person

alleged to lack legal capacity is unable to retain legal counsel and requests the appointment of counsel to assist in the particular matter, whether or not such person lacks or appears to lack legal capacity, the court shall, at or before the time of the hearing, appoint the public defender or private counsel to represent the interest of such person in the following proceedings under this division:

(1) A proceeding to establish a conservatorship or to appoint a proposed conservator.

(2) A proceeding to terminate the conservatorship.

(3) A proceeding to remove the conservator.

(4) A proceeding for a court order affecting the legal capacity of the conservatee.

(5) A proceeding to obtain an order authorizing removal of a temporary conservatee from the temporary conservatee's place of residence.

(b) If a conservatee or proposed conservatee does not plan to retain legal counsel and has not requested the court to appoint legal counsel, whether or not such person lacks or appears to lack legal capacity, the court shall, at or before the time of the hearing, appoint the public defender or private counsel to represent the interests of such person in any proceeding listed in subdivision (a) if, based on information contained in the court investigator's report or obtained from any other source, the court determines that the appointment would be helpful to the resolution of the matter or is necessary to protect the interests of the conservatee or proposed conservatee.

1472. (a) If a person is furnished legal counsel under Section 1471:

(1) The court shall, upon conclusion of the matter, fix a reasonable sum for compensation and expenses of counsel and shall make a determination of the person's ability to pay all or a portion of such sum.

(2) If the court determines that the person has the ability to pay all or a portion of such sum, the court shall order the conservator of the estate or, if none, the person to pay in such installments and in such manner as the court determines to be reasonable and compatible with the person's financial ability.

(3) In a proceeding under Chapter 3 (commencing with Section 3100) of Part 6 for court authorization of a proposed transaction involving community or homestead property, the court may order payment out of the proceeds of the transaction.

(4) If a conservator is not appointed for the person furnished legal counsel, execution may be issued on the order in the same manner as on a judgment in a civil action.

(b) If the court determines that a person furnished private counsel under Section 1471 lacks the ability to pay all or a portion of the sum determined under paragraph (1) of subdivision (a), the county shall pay such sum to the private counsel to the extent the court determines the person is unable to pay.

(c) The payment ordered by the court under subdivision (a) shall

be made to the county if the public defender has been appointed or if private counsel has been appointed to perform the duties of the public defender and the county has compensated such counsel. In the case of other court-appointed counsel, the payment shall be made to such counsel.

CHAPTER 5. TRANSITIONAL PROVISIONS

1480. As used in this chapter:

(a) "Operative date" means January 1, 1981

(b) "Prior law" means the applicable law in effect on December 31, 1980.

1481. Subject to Sections 1484 and 1485, a guardianship or conservatorship in existence under this code on the operative date continues in existence and is governed by this division.

1482. (a) The bonds, security, and other similar obligations in effect immediately prior to the operative date shall continue to apply on and after the operative date the same as if filed, issued, taken, or incurred under this division after the operative date.

(b) If a guardian or conservator or surety is liable under prior law for any act or omission prior to the operative date, the repeals made by this act do not affect such liability. Such liability may be determined and enforced under prior law as fully and to the same extent as if such repeals had not been made.

1483. The changes made in prior law by this division on and after the operative date in the standards for appointment of a guardian shall not affect the validity of any nomination, appointment, or confirmation made under prior law, but any appointment on or after the operative date is governed by this division.

1484. (a) Any order, judgment, or decree made under prior law shall continue in full force and effect in accordance with its terms or until modified or terminated by the court.

(b) Any petition, report, account, or other matter filed or commenced before the operative date shall be continued under this division, so far as applicable, unless in the opinion of the court application of a particular provision of this division would substantially interfere with the effective conduct of the matter or with the rights of the parties or other interested persons, in which case the particular provision of this division does not apply and prior law applies.

1485. (a) A guardianship of an adult, or a guardianship of the person of a married minor, in existence under this code on the operative date shall be deemed to be a conservatorship and is governed by the provisions of law applicable to conservatorships without petition or order, whether or not the letters of guardianship or the title of the proceeding are amended as provided in this chapter.

(b) The validity of transactions and acts of a guardian or conservator shall not be affected by a misdescription of the office, nor

shall any judgment, decree, or order of the court be invalidated by any such misdescription.

1487 (a) At or before the time of the court's first periodic review after the operative date under Section 1850, the court shall review the conservatorship to determine whether an order should be made under Section 1873 broadening the legal capacity of the conservatee.

(b) This section does not apply with respect to guardianships described in Section 1485 or to conservatorships where the conservator was appointed under prior law on the ground that the conservatee was a person for whom a guardian could have been appointed.

(c) Noncompliance with this section gives rise to no penalty.

1488. If, prior to the operative date, an adult has in a signed writing nominated a person to serve as guardian if a guardian is in the future appointed for such adult, such nomination shall be deemed to be a nomination of a conservator. This section applies whether or not the signed writing was executed in the same manner as a witnessed will so long as the person signing the writing had at the time the writing was signed sufficient capacity to form an intelligent preference.

1489. If, prior to the operative date, a parent or other person has in a signed writing appointed a person to serve as the guardian of the person or estate or both of a minor, or as the guardian of the property the minor receives from or by designation of the person making the appointment, such appointment shall be deemed to be a nomination of a guardian if the requirements of Section 1500 or 1501 are satisfied and, in such case, shall be given the same effect it would have under Section 1500 or 1501, as the case may be, if made after the operative date. This section applies whether or not the signed writing is a will or deed so long as the person signing the writing had at the time the writing was signed sufficient capacity to form an intelligent preference.

1490. (a) When used in any statute of this state with reference to an adult or to the person of a married minor, "guardian" means the conservator of that adult or the conservator of the person in case of the married minor

(b) Any reference in the statutes of this state to the term "absentee" or "secretary concerned" as defined in former Section 1751.5 of the Probate Code shall be deemed to be a reference to the definitions of those terms in this division

(c) Any reference in the statutes of this state to the definitions of the terms "account in an insured savings and loan association," "shares of an insured credit union," or "single-premium deferred annuity" in former Section 1510 of the Probate Code shall be deemed to be a reference to the definitions of those terms in this division

1491. The Judicial Council may provide by rule for the orderly transition of pending proceedings on the operative date, including but not limited to rules relating to amendment of title of the proceedings and amendment of, or issuance of, letters of

guardianship or conservatorship.

PART 2. GUARDIANSHIP

CHAPTER 1. ESTABLISHMENT OF GUARDIANSHIP

Article 1 Nomination of Guardian

1500 Subject to Section 1502, a parent may nominate a guardian of the person or estate, or both, of a minor child if·

(a) The other parent nominates, or consents in writing to the nomination of, the same guardian for the same child; or

(b) At the time the petition for appointment of the guardian is filed, either (1) the other parent is dead or lacks legal capacity to consent to the nomination or (2) the consent of the other parent would not be required for an adoption of the child.

1501. Subject to Section 1502, a parent or any other person may nominate a guardian for property that a minor receives from or by designation of the nominator (whether before, at the time of, or after the nomination) including, but not limited to, property received by the minor by virtue of a gift, deed, trust, will, succession, insurance, or benefits of any kind.

1502. (a) A nomination of a guardian under this article may be made in the petition for the appointment of the guardian or at the hearing on the petition or in a writing signed either before or after the petition for the appointment of the guardian is filed.

(b) The nomination of a guardian under this article is effective when made except that a writing nominating a guardian under this article may provide that the nomination becomes effective only upon the occurrence of such specified condition or conditions as are stated in the writing, including but not limited to such conditions as the subsequent legal incapacity or death of the person making the nomination

(c) Unless the writing making the nomination expressly otherwise provides, a nomination made under this article remains effective notwithstanding the subsequent legal incapacity or death of the person making the nomination.

Article 2. Appointment of Guardian Generally

1510 (a) A relative or other person on behalf of the minor, or the minor if 14 years of age or older, may file a petition for the appointment of a guardian of the minor.

(b) The petition shall request that a guardian of the person or estate of the minor, or both, be appointed, shall specify the name and address of the proposed guardian, and shall state that such appointment is necessary or convenient.

(c) The petition shall set forth, so far as known to the petitioner, the names and addresses of all of the following·

(1) The parents of the proposed ward.

(2) The person having legal custody of the proposed ward and, if that person does not have the care of the proposed ward, the person having the care of the proposed ward.

(3) The relatives of the proposed ward within the second degree.

(4) In the case of a guardianship of the estate, the spouse of the proposed ward.

(5) Any person nominated as guardian for the proposed ward under Section 1500 or 1501.

(d) If the proposed ward is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner, whether or not the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration.

(f) If the petitioner has knowledge of any pending adoption, juvenile court, marriage dissolution, domestic relations, custody, or other similar proceeding affecting the proposed ward, the petition shall disclose such pending proceeding.

1511. (a) Except as provided in subdivisions (f) and (g), at least 15 days before the hearing on the petition for the appointment of a guardian, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), (d), and (e) of this section. The notice shall be accompanied by a copy of the petition.

(b) Notice shall be served in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure, or in such manner as may be authorized by the court, on all of the following (other than the petitioner or persons joining in the petition):

(1) The proposed ward if 14 years of age or older.

(2) The person having legal custody of the proposed ward.

(3) The parents of the proposed ward.

(4) Any person nominated as a guardian for the proposed ward under Section 1500 or 1501.

(c) Notice shall be given by mail sent to their addresses stated in the petition, or in such manner as may be authorized by the court, to all of the following (other than the petitioner or persons joining in the petition):

(1) The spouse named in the petition.

(2) The relatives named in the petition, except that if the petition is for the appointment of a guardian of the estate only the court may dispense with the giving of such notice to any one or more or all of such relatives.

(3) The person having the care of the proposed ward if other than the person having legal custody of the proposed ward.

(d) If notice is required by Section 1461 or Section 1542 to be given to the Director of Mental Health or the Director of Developmental Services or the Director of Social Services, notice

shall be mailed as so required.

(e) If the petition states that the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 2908.

(f) Unless the court orders otherwise, notice shall not be given to any of the following:

(1) The parents or other relatives of a proposed ward who has been relinquished to a licensed adoption agency.

(2) The parents of a proposed ward who has been judicially declared free from their custody and control.

(g) Notice need not be given to any person if the court so orders upon a determination of either of the following:

(1) The person cannot with reasonable diligence be given the notice.

(2) The giving of the notice would be contrary to the interest of justice.

(h) Before the appointment of a guardian is made, proof shall be made to the court that each person entitled to notice under this section either·

(1) Has been given notice as required by this section; or

(2) Has not been given notice as required by this section because such person cannot with reasonable diligence be given the notice or because the giving of notice to such person would be contrary to the interest of justice.

1512. Within 10 days after the petitioner in the guardianship proceeding becomes aware of any proceeding not disclosed in the guardianship petition affecting the custody of the proposed ward (including any adoption, juvenile court, marriage dissolution, domestic relations, or other similar proceeding affecting the proposed ward), the petitioner shall amend the guardianship petition to disclose the other proceeding.

1513. (a) The court investigator, probation officer, or domestic relations investigator in the county in which the petition for appointment of a guardian is pending shall make an investigation of each case whenever requested by the court.

(b) The officer making the investigation shall file with the court a written confidential report The report may be considered by the court and shall be made available only to the persons who have been served in the proceeding and the persons who have appeared in the proceeding or their attorneys. The report may be received in evidence upon stipulation of counsel for all such persons who are present at the hearing or, if such a person is present at the hearing but is not represented by counsel, upon consent of the person.

(c) When the court directs that an investigation and report be made under this section, the court shall make an inquiry into the financial condition of (1) the parent, parents, or other person charged with the support and maintenance of the proposed ward and (2) the estate of the proposed ward If the court finds such

parent, parents, or other person or the proposed ward's estate able, in whole or in part, to pay the expense of the investigation and report, the court may make an order requiring such parent, parents, or other person, or the guardian of the ward's estate when appointed, to repay to the county such part, or all, of such expenses of the investigation and report as, in the opinion of the court, is proper. The 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 the collections in the county treasury An order may be made under this subdivision only after a hearing, held after such notice as the court may require, if a hearing is requested.

1514 (a) Upon hearing of the petition, if it appears necessary or convenient, the court may appoint a guardian of the person or estate of the proposed ward or both.

(b) In appointing a guardian of the person, the court is governed by the provisions of Section 4600 of the Civil Code, relating to custody of a minor.

(c) The court shall appoint a guardian nominated under Section 1500 insofar as the nomination relates to the guardianship of the estate unless the court determines that the nominee is unsuitable.

(d) The court shall appoint the person nominated under Section 1501 as guardian of the property covered by the nomination unless the court determines that the nominee is unsuitable. If the person so appointed is appointed only as guardian of the property covered by the nomination, the letters of guardianship shall so indicate.

(e) Subject to subdivisions (c) and (d), in appointing a guardian of the estate:

(1) The court is to be guided by what appears to be in the best interest of the proposed ward, taking into account the proposed guardian's ability to manage and to preserve the estate as well as the proposed guardian's concern for and interest in the welfare of the proposed ward.

(2) If the proposed ward is of sufficient age to form an intelligent preference as to the person to be appointed as guardian, the court shall give consideration to that preference in determining the person to be so appointed.

1515. Notwithstanding any other provision of this part, no guardian of the person shall be appointed for a minor who is married or whose marriage has been dissolved This section does not apply in the case of a minor whose marriage has been adjudged a nullity.

Article 3. Nonrelative Guardianships

1540. This article does not apply in any of the following cases.

(a) Where the petition is for guardianship of the estate exclusively.

(b) Where the petitioner is a relative of the proposed ward

(c) Where the petitioner is one nominated as a guardian of the

proposed ward under Section 1500.

(d) Where the Director of Developmental Services is appointed guardian pursuant to Article 7.5 (commencing with Section 416) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code.

(e) Where the director of the department designated by the board of supervisors to provide social services is appointed guardian.

(f) Where the public guardian is appointed guardian.

1541. In addition to the other required contents of the petition for appointment of a guardian, the petition shall include both of the following:

(a) A statement that, upon request by an agency referred to in Section 1543 for information relating to the investigation referred to in that section, the petitioner will promptly submit the information required.

(b) A disclosure of any petition for adoption of the minor who is the subject of the guardianship petition by the petitioner for guardianship regardless of when or where filed.

(c) A statement whether or not the petitioner's home is licensed as a foster family home.

1542. The petitioner shall mail a notice of the hearing and a copy of the petition to the Director of Social Services at the director's office in Sacramento at least 15 days before the hearing.

1543. (a) If the petition as filed or as amended states that an adoption petition has been filed, a report with respect to the suitability of the petitioner for guardianship shall be filed with the court by the agency investigating the adoption. In other cases, the local agency designated by the board of supervisors to provide public social services shall file a report with the court with respect to the petitioner of the same character required to be made with regard to an applicant for foster family home licensure.

(b) The report filed with the court pursuant to this section is confidential. The report may be considered by the court and shall be made available only to the persons who have been served in the proceeding and the persons who have appeared in the proceeding or their attorneys. The report may be received in evidence upon stipulation of counsel for all such persons who are present at the hearing or, if such person is present at the hearing but is not represented by counsel, upon consent of such person.

CHAPTER 2 TERMINATION

1600. (a) A guardianship of the person or estate or both terminates when the ward attains majority or dies

(b) A guardianship of the person terminates when the ward marries.

1601. Upon petition of the guardian, a parent, or the ward, the court may make an order terminating the guardianship if the court determines that it is no longer necessary that the ward have a guardian or that it is in the ward's best interest to terminate the

guardianship. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

PART 3. CONSERVATORSHIP

CHAPTER 1. ESTABLISHMENT OF CONSERVATORSHIP

Article 1. Persons for Whom Conservator May Be Appointed

1800. If the need therefor is established to the satisfaction of the court and the other requirements of this chapter are satisfied, the court may appoint:

(a) A conservator of the person or estate of an adult, or both.

(b) A conservator of the person of a minor who is married or whose marriage has been dissolved.

1801. Subject to Section 1800:

(a) A conservator of the person may be appointed for a person who is unable properly to provide for his or her personal needs for physical health, food, clothing, or shelter.

(b) A conservator of the estate may be appointed for a person who is substantially unable to manage his or her own financial resources or resist fraud or undue influence. Substantial inability may not be proved solely by isolated incidents of negligence or improvidence.

(c) A conservator of the person and estate may be appointed for a person described in subdivisions (a) and (b).

1802. Subject to Section 1800, a conservator of the person or estate, or both, may be appointed for a person who voluntarily requests the appointment and who, to the satisfaction of the court, establishes good cause for the appointment.

1803. A conservator of the estate may be appointed for a person who is an absentee as defined in Section 1403.

Article 2. Order of Preference for Appointment of Conservator

1810. If the proposed conservatee has sufficient capacity at the time to form an intelligent preference, the proposed conservatee may nominate a conservator in the petition or in a writing signed either before or after the petition is filed. The court shall appoint the nominee as conservator unless the court finds that the appointment of the nominee is not in the best interests of the proposed conservatee.

1811. (a) The spouse or an adult child, parent, brother, or sister of the proposed conservatee may nominate a conservator in the petition or at the hearing on the petition.

(b) The spouse or a parent of the proposed conservatee may nominate a conservator in a writing signed either before or after the petition is filed and such nomination remains effective notwithstanding the subsequent legal incapacity or death of the

spouse or parent, except that a nomination by the spouse becomes void upon dissolution or an adjudication of nullity of their marriage.

1812. (a) Subject to Sections 1810 and 1813, the selection of a conservator of the person or estate, or both, is solely in the discretion of the court and, in making the selection, the court is to be guided by what appears to be for the best interests of the proposed conservatee.

(b) Subject to Sections 1810 and 1813, of persons equally qualified in the opinion of the court to appointment as conservator of the person or estate or both, preference is to be given in the following order:

(1) The spouse of the proposed conservatee or the person nominated by the spouse pursuant to Section 1811.

(2) An adult child of the proposed conservatee or the person nominated by the child pursuant to Section 1811.

(3) A parent of the proposed conservatee or the person nominated by the parent pursuant to Section 1811.

(4) A brother or sister of the proposed conservatee or the person nominated by the brother or sister pursuant to Section 1811.

(5) Any other person or entity eligible for appointment as a conservator under this code or, if there is no such person or entity willing to act as a conservator, under the Welfare and Institutions Code.

(c) The preference for any nominee for appointment under paragraphs (2), (3), and (4) of subdivision (b) is subordinate to the preference for any other parent, child, brother, or sister in such class.

1813. The spouse of an absentee as defined in Section 1403 may not be appointed as conservator of the estate of the absentee unless the spouse alleges in the petition for appointment as conservator, and the court finds, that the spouse has not commenced any action or proceeding against the absentee for judicial or legal separation, divorce or dissolution of marriage, annulment, or adjudication of nullity of their marriage.

Article 3. Establishment of Conservatorship

1820. (a) A petition for the appointment of a conservator may be filed by any of the following:

(1) The proposed conservatee.

(2) The spouse of the proposed conservatee.

(3) A relative of the proposed conservatee.

(4) Any interested state or local entity or agency of this state or any interested public officer or employee of this state or of a local public entity of this state.

(5) Any other interested person or friend of the proposed conservatee

(b) If the proposed conservatee is a minor, the petition may be filed during his or her minority so that the appointment of a conservator may be made effective immediately upon the minor's

attaining the age of majority. An existing guardian of the minor may be appointed as conservator under this part upon the minor's attaining the age of majority, whether or not the guardian's accounts have been settled.

(c) A creditor of the proposed conservatee may not file a petition for appointment of a conservator unless the creditor is a person described in paragraph (2), (3), or (4) of subdivision (a)

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the proposed conservator, and shall state the reasons why the appointment is required.

(b) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse and of the relatives of the proposed conservatee within the second degree.

(c) If the petition is filed by one other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor of the proposed conservatee.

(d) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner, whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration.

(f) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(g) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the petition, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), and (d) of this section. The notice shall be accompanied by a copy of the petition

(b) Notice shall be mailed to the following persons (other than the petitioner or persons joining in the petition):

(1) The spouse, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the petition at their addresses stated in the petition.

(c) If notice is required by Section 1461 to be given to the Director of Mental Health or the Director of Developmental Services, notice shall be mailed as so required

(d) If the petition states that the proposed conservatee is receiving or is entitled to receive benefits from the Veterans

Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 2908.

1823. (a) If the petition is filed by a person other than the proposed conservatee, the clerk shall issue a citation directed to the proposed conservatee setting forth the time and place of hearing.

(b) The citation shall include a statement of the legal standards by which the need for a conservatorship is adjudged as stated in Section 1801 and shall state the substance of all of the following:

(1) The proposed conservatee may be adjudged unable to provide for personal needs or to manage financial resources and, by reason thereof, a conservator may be appointed for the person or estate or both.

(2) Such adjudication may affect the proposed conservatee's right to contract, to manage and control property, to give informed consent for medical treatment, and to fix a residence.

(3) The proposed conservatee may be disqualified from voting if not capable of completing an affidavit of voter registration.

(4) The court or a court investigator will explain the nature, purpose, and effect of the proceeding to the proposed conservatee and will answer questions concerning the explanation.

(5) The proposed conservatee has the right to appear at the hearing and to oppose the petition.

(6) The proposed conservatee has the right to choose and be represented by legal counsel and has the right to have legal counsel appointed by the court if unable to retain legal counsel.

(7) The proposed conservatee has the right to a jury trial if desired.

1824. The citation and a copy of the petition shall be served on the proposed conservatee at least 15 days before the hearing. Service shall be made in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure or in such manner as may be authorized by the court. If the proposed conservatee is outside this state, service may also be made in the manner provided in Section 415.40 of the Code of Civil Procedure.

1825. (a) The proposed conservatee shall be produced at the hearing except in the following cases:

(1) Where the proposed conservatee is out of the state when served and is not the petitioner.

(2) Where the proposed conservatee is unable to attend the hearing by reason of medical inability.

(3) Where the court investigator has reported to the court that the proposed conservatee has expressly communicated that the proposed conservatee (i) is not willing to attend the hearing, (ii) does not wish to contest the establishment of the conservatorship, and (iii) does not object to the proposed conservator or prefer that another person act as conservator, and the court makes an order that the proposed conservatee need not attend the hearing.

(b) If the proposed conservatee is unable to attend the hearing because of medical inability, such inability shall be established (1) by

the affidavit or certificate of a licensed medical practitioner or (2) if the proposed conservatee is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of that religion, by the affidavit of the practitioner. The affidavit or certificate is evidence only of the proposed conservatee's inability to attend the hearing and shall not be considered in determining the issue of need for the establishment of a conservatorship.

(c) Emotional or psychological instability is not good cause for the absence of the proposed conservatee from the hearing unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the proposed conservatee.

1826. If the petition alleges that the proposed conservatee is not willing to attend the hearing, or upon receipt of an affidavit or certificate attesting to the medical inability of the proposed conservatee to attend the hearing, the court investigator shall do all of the following:

(a) Interview the proposed conservatee personally.

(b) Inform the proposed conservatee of the contents of the citation, of the nature, purpose, and effect of the proceeding, and of the right of the proposed conservatee to oppose the proceeding, to attend the hearing, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(c) Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend the hearing.

(d) Determine whether the proposed conservatee wishes to contest the establishment of the conservatorship.

(e) Determine whether the proposed conservatee objects to the proposed conservator or prefers another person to act as conservator.

(f) Determine whether the proposed conservatee wishes to be represented by legal counsel and, if so, whether the proposed conservatee has retained legal counsel and, if not, the name of an attorney the proposed conservatee wishes to retain.

(g) Determine whether the proposed conservatee is capable of completing an affidavit of voter registration.

(h) If the proposed conservatee has not retained legal counsel, determine whether the proposed conservatee desires the court to appoint legal counsel.

(i) Determine whether the appointment of legal counsel would be helpful to the resolution of the matter or is necessary to protect the interests of the proposed conservatee in any case where the proposed conservatee does not plan to retain legal counsel and has not requested the appointment of legal counsel by the court.

(j) Report to the court in writing, at least five days before the hearing, concerning all of the foregoing, including the proposed

conservatee's express communications concerning both of the following:

(1) Representation by legal counsel.

(2) Whether the proposed conservatee is not willing to attend the hearing, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(k) Mail, at least five days before the hearing, a copy of the report referred to in subdivision (j) to all of the following:

(1) The attorney, if any, for the petitioner.

(2) The attorney, if any, for the proposed conservatee.

(3) Such other persons as the court orders.

1827. The court shall hear and determine the matter of the establishment of the conservatorship according to the law and procedure relating to the trial of civil actions, including trial by jury if demanded.

1828. (a) Except as provided in subdivision (c), prior to the establishment of a conservatorship of the person or estate, or both, the court shall inform the proposed conservatee of all of the following:

(1) The nature and purpose of the proceeding.

(2) The establishment of a conservatorship is a legal adjudication of the conservatee's inability properly to provide for the conservatee's personal needs or to manage the conservatee's own financial resources, or both, depending on the allegations made and the determinations requested in the petition, and the effect of such an adjudication on the conservatee's basic rights

(3) The proposed conservatee may be disqualified from voting if not capable of completing an affidavit of voter registration.

(4) The identity of the proposed conservator.

(5) The nature and effect on the conservatee's basic rights of any order requested under Chapter 4 (commencing with Section 1870).

(6) The proposed conservatee has the right to oppose the proceeding, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(b) After the court so informs the proposed conservatee and prior to the establishment of the conservatorship, the court shall consult the proposed conservatee to determine the proposed conservatee's opinion concerning all of the following

(1) The establishment of the conservatorship.

(2) The appointment of the proposed conservator

(3) Any order requested under Chapter 4 (commencing with Section 1870).

(c) This section does not apply where both of the following conditions are satisfied:

(1) The proposed conservatee is absent from the hearing and is not required to attend the hearing under the provisions of

subdivision (a) of Section 1825.

(2) Any showing required by Section 1825 has been made.

1829. The proposed conservatee, the spouse or any relative or friend of the proposed conservatee, or any other interested person may appear at the hearing to support or oppose the petition.

1830. The order appointing the conservator shall contain, among other things, the names, addresses, and telephone numbers of:

(a) The conservator.

(b) The conservatee's attorney, if any.

(c) The court investigator, if any.

Article 4. Special Provisions Applicable Where Proposed Conservatee Is an Absentee

1840. Except as otherwise provided in this article, a conservator for an absentee (Section 1403) shall be appointed as provided in Article 3 (commencing with Section 1820).

1841. In addition to the other required contents of the petition, if the proposed conservatee is an absentee:

(a) The petition, and any notice required by Section 1822 or any other law, shall set forth the last known military rank or grade and the social security account number of the proposed conservatee

(b) The petition shall state whether the absentee's spouse has commenced any action or proceeding against the absentee for judicial or legal separation, divorce or dissolution of marriage, annulment, or adjudication of nullity of their marriage

1842. In addition to the persons and entities to whom notice of hearing is required under Section 1822, if the proposed conservatee is an absentee, a copy of the petition and notice of the time and place of the hearing shall be mailed at least 15 days before the hearing to the secretary concerned or to the head of the United States department or agency concerned, as the case may be. In such case, notice shall also be published pursuant to Section 6061 of the Government Code in a newspaper of general circulation in the county in which the hearing will be held.

1843. No citation is required under Section 1823 to the proposed conservatee if the proposed conservatee is an absentee.

1844. (a) An official written report or record complying with Section 1283 of the Evidence Code that a proposed conservatee is an absentee shall be received as evidence of that fact and the court shall not determine the status of the proposed conservatee inconsistent with the status determined as shown by the written report or record

(b) The inability of the proposed conservatee to attend the hearing is established by the official written report or record referred to in subdivision (a).

CHAPTER 2. PERIODIC REVIEW OF CONSERVATORSHIP

1850. (a) Except as provided in subdivision (b), each conservatorship initiated pursuant to this part shall be reviewed by the court one year after the appointment of the conservator and biennially thereafter.

(b) This chapter does not apply to either of the following:

(1) A conservatorship for an absentee as defined in Section 1403.

(2) A conservatorship of the estate for a nonresident of this state where the conservatee is not present in this state.

1851. (a) When court review is required, the court investigator shall visit the conservatee. The court investigator shall inform the conservatee personally that the conservatee is under a conservatorship and shall give the name of the conservator to the conservatee The court investigator shall determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, whether the present conservator is acting in the best interests of the conservatee, and whether the conservatee is capable of completing an affidavit of voter registration. If the court has made an order under Chapter 4 (commencing with Section 1870), the court investigator shall determine whether the present condition of the conservatee is such that the terms of the order should be modified or the order revoked

(b) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days prior to the date of review. A copy of the report shall be mailed to the conservator and to the attorneys of record for the conservator and conservatee at the same time it is certified to the court.

1852. If the conservatee wishes to petition the court for termination of the conservatorship or for removal of the existing conservator or for the making, modification, or revocation of a court order under Chapter 4 (commencing with Section 1870) or for restoration of the right to register to vote, or if, based on information contained in the court investigator's report or obtained from any other source, the court determines that a trial or hearing for termination of the conservatorship or removal of the existing conservator is in the best interests of the conservatee, the court shall notify the attorney of record for the conservatee, if any, or shall appoint the public defender or private counsel under Section 1471, to file the petition and represent the conservatee at the trial or hearing and, if such appointment is made, Section 1472 applies

1853. (a) If the court investigator is unable to locate the conservatee, the court shall order the court investigator to serve notice upon the conservator of the person, or upon the conservator of the estate if there is no conservator of the person, in the manner provided in Section 415 10 or 415.30 of the Code of Civil Procedure or in such other manner as is ordered by the court, to make the

conservatee available for the purposes of Section 1851 to the court investigator within 15 days of the receipt of such notice or to show cause why the conservatorship should not be terminated.

(b) If the conservatee is not made available within the time prescribed, unless good cause is shown for not doing so, the court shall make such a finding and shall enter judgment terminating the conservatorship and, in case of a conservatorship of the estate, shall order the conservator to file an accounting and to surrender the estate to the person legally entitled thereto. At the hearing, or thereafter on further notice and hearing, the conservator may be discharged and the bond given by the conservator may be exonerated upon the settlement and approval of the conservator's final account by the court.

(c) Termination of the conservatorship under this section does not preclude institution of new proceedings for the appointment of a conservator. Nothing in this section limits the power of a court to appoint a temporary conservator under Chapter 3 (commencing with Section 2250) of Part 4.

CHAPTER 3. TERMINATION

1860. (a) A conservatorship continues until terminated by the death of the conservatee or by order of the court.

(b) If a conservatorship is established for the person of a married minor, the conservatorship does not terminate if the marriage is dissolved or is adjudged a nullity.

1861. (a) A petition for the termination of the conservatorship may be filed by any of the following:

(1) The conservator

(2) The conservatee.

(3) The spouse or any interested person or relative or friend of the conservatee.

(b) The petition shall state facts showing that the conservatorship is no longer required.

1862. (a) At least 15 days before the hearing, a copy of the petition and a notice of the time and place of the hearing shall be mailed to the persons specified in Section 1822

(b) If the conservator is not the petitioner and has not joined in the petition, the conservator shall be served with a copy of the petition and a notice of the time and place of the hearing at least 15 days prior to the hearing.

(c) If the conservatee is not the petitioner and has not joined in the petition, the conservatee shall be served with a copy of the petition and a notice of the time and place of hearing at least 15 days prior to the hearing.

(d) Service under subdivisions (b) and (c) shall be made in the manner provided in Section 415 10 or 415 30 of the Code of Civil Procedure or in such other manner as may be authorized by the court If the person to be served is outside this state, service may also

be made in the manner provided in Section 415.40 of the Code of Civil Procedure. If the conservator or conservatee cannot with reasonable diligence be served with a copy of the petition and notice of hearing, the court may dispense with such service.

1863. (a) The court shall hear and determine the matter according to the law and procedure relating to the trial of civil actions, including trial by jury if demanded. The conservator, the conservatee, or the spouse or any relative or friend of the conservatee or other interested person may appear and support or oppose the petition.

(b) If the court determines that the conservatorship is no longer required or that grounds for establishment of a conservatorship of the person or estate, or both, no longer exist, the court shall make such a finding and shall enter judgment terminating the conservatorship accordingly.

(c) At the hearing, or thereafter on further notice and hearing, the conservator may be discharged and the bond given by the conservator may be exonerated upon the settlement and approval of the conservator's final account by the court.

(d) Termination of conservatorship does not preclude institution of new proceedings for appointment of a conservator on the same or other grounds.

1864. (a) In the case of the conservatorship of an absentee as defined in Section 1403, the petition to terminate the conservatorship may also be filed by any officer or agency of this state or of the United States or the authorized delegate thereof.

(b) If the petition states and the court determines that the absentee has returned to the controllable jurisdiction of the military department or civilian department or agency concerned, or is deceased, as determined under 37 United States Code, Section 556, or 5 United States Code, Section 5566, as the case may be, the court shall order the conservatorship terminated. An official written report or record of such military department or civilian department or agency that the absentee has returned to such controllable jurisdiction or is deceased shall be received as evidence of such fact.

1865. If the conservatee has been disqualified from voting pursuant to Section 707.5 or 707.6 of the Elections Code, upon termination of the conservatorship the court shall notify the county clerk of the county of residence of the former conservatee that the former conservatee's right to register to vote is restored.

CHAPTER 4. LEGAL CAPACITY OF CONSERVATEE

Article 1 Capacity to Bind or Obligate Conservatorship Estate

1870. As used in this article, unless the context otherwise requires, "transaction" includes, but is not limited to, making a contract, sale, transfer, or conveyance, incurring a debt or encumbering property, making a gift, delegating a power, and

waiving a right.

1871. Nothing in this article shall be construed to deny a conservatee any of the following:

(a) The right to control an allowance provided under Section 2421.

(b) The right to control wages or salary to the extent provided in Section 2601.

(c) The right to make a will subject to the limitations of Chapter 1 (commencing with Section 20) of Division 1.

(d) The right to enter into transactions to the extent reasonable to provide the necessaries of life to the conservatee and the spouse and minor children of the conservatee.

1872. Except as otherwise provided in this article, the appointment of a conservator of the estate is an adjudication that the conservatee lacks the legal capacity to enter into or make any transaction that binds or obligates the conservatorship estate.

1873. (a) In the order appointing the conservator or upon a petition filed under Section 1874, the court may by order authorize the conservatee, subject to Section 1876, to enter into such transactions or types of transactions as may be appropriate in the circumstances of the particular conservatee and conservatorship estate.

(b) In an order made under this section, the court may include such limitations or conditions on the exercise of the authority granted to the conservatee as the court determines to be appropriate including, but not limited to, the following:

(1) A requirement that for specific types of transactions or for all transactions authorized by the order, the conservatee obtain prior approval of the transaction by the court or conservator before exercising the authority granted by the order.

(2) A provision that the conservator has the right to avoid any transaction made by the conservatee pursuant to the authority of the order if the transaction is not one into which a reasonably prudent person might enter.

(c) The court, in its discretion, may provide in the order that, unless extended by subsequent order of the court, the order or specific provisions of the order terminate at a time specified in the order

(d) An order under this section continues in effect until the earliest of the following times:

(1) The time specified in the order, if any

(2) The time the order is modified or revoked

(3) The time the conservatorship of the estate is terminated.

(e) An order under this section may be modified or revoked upon petition filed by the conservator, conservatee, the spouse of the conservatee, or any relative or friend of the conservatee, or any interested person Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

1874 (a) After a conservator has been appointed, a petition requesting an order under Section 1873 may be filed by any of the following·

(1) The conservator.

(2) The conservatee.

(3) The spouse or any relative or friend of the conservatee.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

1875. A transaction that affects real property of the conservatorship estate, entered into by a purchaser or encumbrancer in good faith and for a valuable consideration and without knowledge of the establishment of the conservatorship, is not affected by any provision of this article or any order made under this article unless a notice of the establishment of the conservatorship has been recorded prior to the transaction in the county in which the property is located.

1876 The provisions of this article relating to the legal capacity of a conservatee to bind or obligate the conservatorship estate, and the provisions of any order of the court broadening such capacity, do not displace but are supplemented by general principles of law and equity relating to transactions including, but not limited to, capacity to contract, joinder or consent requirements, estoppel, fraud, misrepresentation, duress, coercion, mistake, or other validating or invalidating cause.

Article 2. Capacity to Give Informed Consent for Medical Treatment

1880 If the court determines that there is no form of medical treatment for which the conservatee has the capacity to give an informed consent, the court shall (1) adjudge that the conservatee lacks the capacity to give informed consent for medical treatment and (2) by order give the conservator of the person the powers specified in Section 2355 If an order is made under this section, the letters of conservatorship shall include a statement that the conservator has the powers specified in Section 2355.

1890. An order of the court under Section 1880 may be included in the order of appointment of the conservator if the order was requested in the petition for the appointment of the conservator or may be made subsequently upon a petition made, noticed, and heard by the court in the manner provided in this article

1891. (a) A petition may be filed under this article requesting that the court make an order under Section 1880 or that the court modify or revoke an order made under Section 1880 The petition shall state facts showing that the order requested is appropriate

(b) The petition may be filed by any of the following.

(1) The conservator.

(2) The conservatee.

(3) The spouse or any relative or friend of the conservatee.

(c) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse and of the relatives of the conservatee within the second degree.

1892. Notice of the hearing on the petition shall be as follows:

(a) At least 15 days before the hearing, a copy of the petition and a notice of the time and place of the hearing shall be mailed to the spouse and relatives of the conservatee named in the petition (other than the petitioner or persons joining in the petition) at their addresses stated in the petition.

(b) If the conservator is not the petitioner and has not joined in the petition, the conservator shall be served with a copy of the petition and a notice of the time and place of the hearing at least 15 days prior to the hearing.

(c) If the conservatee is not the petitioner and has not joined in the petition, the conservatee shall be served with a copy of the petition and a notice of the time and place of hearing at least 15 days prior to the hearing

(d) Service under subdivisions (b) and (c) shall be made in the manner provided in Section 415.10 or 415 30 of the Code of Civil Procedure or in such other manner as may be authorized by the court If the person to be served is outside this state, service may also be made in the manner provided in Section 415.40 of the Code of Civil Procedure.

1893. The conservatee shall be produced at the hearing except in the following cases:

(a) Where the conservatee is out of state when served and is not the petitioner.

(b) Where the conservatee is unable to attend the hearing by reason of medical inability established (1) by the affidavit or certificate of a licensed medical practitioner or (2) if the conservatee is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of that religion, by the affidavit of the practitioner. The affidavit or certificate is evidence only of the conservatee's inability to attend the hearing and shall not be considered in determining the issue of the legal capacity of the conservatee Emotional or psychological instability is not good cause for the absence of the conservatee from the hearing unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the conservatee.

(c) Where the court investigator has reported to the court that the conservatee has expressly communicated that the conservatee (1) is not willing to attend the hearing and (2) does not wish to contest the petition, and the court makes an order that the conservatee need not attend the hearing

1894 If the petition alleges that the conservatee is not willing to attend the hearing or upon receipt of an affidavit or certificate attesting to the medical inability of the conservatee to attend the

hearing, the court investigator shall do all of the following:

(a) Interview the conservatee personally.

(b) Inform the conservatee of the contents of the petition, of the nature, purpose, and effect of the proceeding, and of the right of the conservatee to oppose the petition, attend the hearing, and be represented by legal counsel.

(c) Determine whether it appears that the conservatee is unable to attend the hearing and, if able to attend, whether the conservatee is willing to attend the hearing.

(d) Determine whether the conservatee wishes to contest the petition.

(e) Determine whether the conservatee wishes to be represented by legal counsel and, if so, whether the conservatee has retained legal counsel and, if not, the name of an attorney the conservatee wishes to retain

(f) If the conservatee has not retained counsel, determine whether the conservatee desires the court to appoint legal counsel.

(g) Determine whether the appointment of legal counsel would be helpful to the resolution of the matter or is necessary to protect the interests of the conservatee in any case where the conservatee does not plan to retain legal counsel and has not requested the court to appoint legal counsel

(h) Report to the court in writing, at least five days before the hearing, concerning all of the foregoing, including the conservatee's express communications concerning both (1) representation by legal counsel and (2) whether the conservatee is not willing to attend the hearing and does not wish to contest the petition.

1895 (a) The conservatee, the spouse or any relative or friend of the conservatee, the conservator, or any other interested person may appear at the hearing to support or oppose the petition.

(b) Except where the conservatee is absent from the hearing and is not required to attend the hearing under the provisions of Section 1893 and any showing required by Section 1893 has been made, the court shall, prior to granting the petition, inform the conservatee of all of the following

(1) The nature and purpose of the proceeding

(2) The nature and effect on the conservatee's basic rights of the order requested

(3) The conservatee has the right to oppose the petition, to be represented by legal counsel if the conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel

(c) After the court informs the conservatee of the matters listed in subdivision (b) and prior to granting the petition, the court shall consult the conservatee to determine the conservatee's opinion concerning the order requested in the petition.

1896 (a) If the court determines that the order requested in the petition is proper, the court shall make the order

(b) The court, in its discretion, may provide in the order that,

unless extended by subsequent order of the court, the order or specific provisions of the order terminate at a time specified in the order.

1897. An order of the court under Section 1880 continues in effect until the earliest of the following times:

(1) The time specified in the order, if any.

(2) The time the order is modified or revoked.

(3) The time the conservatorship is terminated.

1898. An order of the court under Section 1880 may be modified or revoked upon a petition made, noticed, and heard by the court in the manner provided in this article.

Article 3. Capacity of Conservatee to Marry

1900 The appointment of a conservator of the person or estate or both does not affect the capacity of the conservatee to marry.

1901. (a) The court may by order determine whether the conservatee has the capacity to enter into a valid marriage, as provided in Part 5 (commencing with Section 4000) of Division 4 of the Civil Code, at the time the order is made.

(b) A petition for an order under this section may be filed by the conservator of the person or estate or both, the conservatee, any relative or friend of the conservatee, or any interested person.

(c) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1

Chapter 5. Disqualification From Voting

1910 If the court determines the conservatee is not capable of completing an affidavit of voter registration in accordance with Section 500 of the Elections Code, the court shall by order disqualify the conservatee from voting pursuant to Section 707.5 or 707.6 of the Elections Code.

PART 4 PROVISIONS COMMON TO GUARDIANSHIP AND CONSERVATORSHIP

Chapter 1. General Provisions

2100. Guardianships and conservatorships are governed by the provisions of this division If no specific provision of this division is applicable, the provisions of Division 3 (commencing with Section 300) govern so far as they are applicable to like situations.

2101. The relationship of guardian and ward and conservator and conservatee is confidential and is subject to the law relating to trusts.

2102. A guardian or conservator is subject to the regulation and control of the court in the performance of the duties of the office.

2103 (a) Unless reversed on appeal, a judgment, order, or decree

made pursuant to this division is final and releases the guardian or conservator and the sureties from all claims of the ward or conservatee and of any persons affected thereby based upon any act or omission directly authorized, approved, or confirmed in the judgment, order, or decree. For the purposes of this section, "order" includes an order settling an account of the guardian or conservator, whether an intermediate or final account.

(b) This section does not apply where the judgment, order, or decree is obtained by fraud or conspiracy or by misrepresentation contained in the petition or account or in the judgment, order, or decree as to any material fact. For the purposes of this subdivision, misrepresentation includes but is not limited to, the omission of a material fact.

2104. (a) A nonprofit charitable corporation may be appointed as a guardian or conservator of the person or estate, or both, if all of the following requirements are met:

(1) The corporation is incorporated in this state.

(2) The articles of incorporation specifically authorize the corporation to accept appointments as guardian or conservator, as the case may be.

(3) The corporation has been providing, at the time of appointment, care, counseling, or financial assistance to the proposed ward or conservatee under the supervision of a registered social worker certified by the Board of Behavioral Science Examiners of this state

(b) The petition for appointment of a nonprofit charitable corporation described in this section as a guardian or conservator shall include in the caption the name of a responsible corporate officer who shall act for the corporation for the purposes of this division If, for any reason, the officer so named ceases to act as the responsible corporate officer for the purposes of this division, the corporation shall file with the court a notice containing (1) the name of the successor responsible corporate officer and (2) the date the successor becomes the responsible corporate officer

(c) If a nonprofit charitable corporation described in this section is appointed as a guardian or conservator.

(1) The corporation's compensation as guardian or conservator shall be allowed only for services actually rendered and shall not be based on the value of the estate

(2) Any fee allowed for an attorney for such corporation shall be for services actually rendered and shall not be based on the value of the estate.

2105. (a) The court, in its discretion, may appoint for a ward or conservatee

(1) Two or more joint guardians or conservators of the person

(2) Two or more joint guardians or conservators of the estate.

(3) Two or more joint guardians or conservators of the person and estate

(b) When joint guardians or conservators are appointed:

(1) Each shall qualify in the same manner as a sole guardian or conservator.

(2) The act of a majority of the joint guardians or conservators is valid.

(c) If one of the joint guardians or conservators dies or is removed or resigns, the powers and duties continue in the remaining joint guardians or conservators until further appointment is made by the court.

(d) Where joint guardians or conservators have been appointed and one or more are absent from the state or legally disqualified from serving, the court may, by order made with or without notice, authorize the remaining joint guardians or conservators to act as to all matters embraced within its order.

2106. (a) The court, in its discretion, may appoint one guardian or conservator for several wards or conservatees.

(b) The appointment of one guardian or conservator for several wards or conservatees may be requested in the initial petition filed in the proceeding or may be requested subsequently upon a petition filed in the same proceeding and noticed and heard with respect to the newly proposed ward or conservatee in the same manner as an initial petition for appointment of a guardian or conservator.

2107 (a) Unless limited by court order, a guardian or conservator of the person of a nonresident has the same powers and duties as a guardian or conservator of the person of a resident while the nonresident is in this state.

(b) A guardian or conservator of the estate of a nonresident has, with respect to the estate of the nonresident within this state, the same powers and duties as a guardian or conservator of the estate of a resident. The responsibility of such a guardian or conservator with regard to inventory, accounting, and disposal of the estate is confined to such estate as comes into the hands of the guardian or conservator in this state

2108. (a) Except to the extent the court for good cause determines otherwise, if a guardian of the person is nominated by a will under Section 1500 and is appointed by the court, the guardian so appointed shall be granted in the order of appointment, to the extent provided in the will, the same authority with respect to the person of the ward as a parent having legal custody of a child and may exercise such authority without notice, hearing, or court authorization, instructions, approval, or confirmation in the same manner as if such authority were exercised by a parent having legal custody of a child.

(b) Except to the extent the court for good cause determines otherwise and subject to Sections 2593, 2594, and 2595, if a guardian of the estate is nominated by a will under Section 1500 or a guardian for property is nominated by a will under Section 1501 and the guardian is appointed by the court, the guardian so appointed shall be granted in the order of appointment, to the extent provided in the will, the right to exercise any one or more of the powers listed in

Section 2591 without notice, hearing, or court authorization, instructions, approval, or confirmation in the same manner as if such authority were granted by order of the court under Section 2590. In the case of a guardian nominated by a will under Section 1501, such additional authority shall be limited to the property covered by the nomination.

(c) The terms of any order made under this section shall be included in the letters of guardianship.

2109. (a) Subject to Section 2108, a guardian appointed under subdivision (d) of Section 1514 for particular property upon a nomination made under Section 1501 has, with respect to that property, the same powers and duties as a guardian of the estate. The responsibility of such a guardian with regard to inventory, accounting, and disposal of the estate is confined to the property covered by the nomination.

(b) When a guardian is appointed under subdivision (d) of Section 1514 for particular property upon a nomination made under Section 1501 and there is a guardian of the estate appointed under any other provision of Part 2 (commencing with Section 1500):

(1) The guardian appointed for the property covered by the nomination manages and controls that property and the guardian of the estate manages and controls the balance of the guardianship estate.

(2) Either guardian may petition under Section 2403 to the court in which the guardianship of the estate proceeding is pending for instructions concerning how the duties that are imposed by law upon the guardian of the estate are to be allocated between the two guardians.

2110. When for any reason a vacancy occurs in the office of guardian or conservator, the court may appoint a successor, after notice and hearing as in the case of an original appointment.

2111. (a) As used in this section, "transaction" means any of the following:

(1) A conveyance or lease of real property of the guardianship or conservatorship estate.

(2) The creation of a mortgage or deed of trust on real property of the guardianship or conservatorship estate.

(3) A transfer of personal property of the guardianship or conservatorship estate.

(4) The creation of a security interest or other lien in personal property of the guardianship or conservatorship estate

(b) Whenever the court authorizes or directs a transaction, the transaction shall be carried out by the guardian or conservator of the estate in accordance with the terms of the order

(c) A conveyance, lease, or mortgage of, or deed of trust on, real property executed by a guardian or conservator shall set forth therein that it is made by authority of the order authorizing or directing the transaction and shall give the date of the order. A certified copy of the order shall be recorded in the office of the

county recorder in each county in which any portion of the real property is located.

(d) A transaction carried out by a guardian or conservator in accordance with an order authorizing or directing the transaction has the same effect as if the ward or conservatee had carried out the transaction while having legal capacity to do so.

2112. With respect to a guardianship or conservatorship proceedings to which Title 25 of the United States Code (Indians) applies, the provisions of this division are subject to the provisions of Title 25 and, to the extent inconsistent with Title 25, are superseded by that title.

CHAPTER 2. JURISDICTION AND VENUE

Article 1. Jurisdiction and Venue

2200. The superior court has jurisdiction of guardianship and conservatorship proceedings

2201. The proper county for the commencement of a guardianship or conservatorship proceeding for a resident of this state is either of the following.

(a) The county in which the proposed ward or proposed conservatee resides

(b) Such other county as may be in the best interests of the proposed ward or proposed conservatee

2202 (a) The proper county for the commencement of a proceeding for the guardianship or conservatorship of the person of a nonresident of this state is either of the following:

(1) The county in which the proposed ward or conservatee is temporarily living.

(2) Such other county as may be in the best interests of the proposed ward or proposed conservatee.

(b) The proper county for the institution of a proceeding for the guardianship or conservatorship of the estate for a nonresident of this state is any of the following:

(1) The county in which the proposed ward or proposed conservatee is temporarily living

(2) Any county in which the proposed ward or proposed conservatee has property

(3) Such other county as may be in the best interests of the proposed ward or proposed conservatee

2203 (a) If proceedings for the guardianship or conservatorship of the estate are instituted in more than one county, the guardianship or conservatorship of the estate first granted, including a temporary guardianship or conservatorship of the estate, governs and extends to all the property of the ward or conservatee within this state and the other proceeding shall be dismissed

(b) If proceedings for the guardianship or conservatorship of the person are instituted in more than one county, the guardianship or

conservatorship of the person first granted, including a temporary guardianship or conservatorship of the person, governs and the other proceeding shall be dismissed.

Article 2. Change of Venue

2210. As used in this article:

(a) "Guardian or conservator" includes a proposed guardian or proposed conservator.

(b) "Ward or conservatee" includes a proposed ward or proposed conservatee.

2211. The court in which a guardianship or conservatorship proceeding is pending may, upon petition therefor, transfer the proceeding to another county within this state.

2212. The petition for transfer may be filed only by one or more of the following:

(a) The guardian or conservator

(b) The ward or conservatee.

(c) The spouse of the ward or conservatee.

(d) A relative or friend of the ward or conservatee.

(e) Any other interested person.

2213. The petition for transfer shall set forth all of the following:

(a) The county to which the proceeding is to be transferred.

(b) The name and address of the ward or conservatee

(c) A brief description of the character, value, and location of the property of the ward or conservatee.

(d) The reasons for the transfer.

(e) The names and addresses, so far as they are known to the petitioner, of the spouse and of the relatives of the ward or conservatee within the second degree.

(f) The name and address of the guardian or conservator if other than the petitioner

2214. Notice of the hearing shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1. In addition, the petitioner shall mail a notice of the time and place of the hearing and a copy of the petition to all persons required to be listed in the petition at least 15 days before the date set for the hearing.

2215. (a) Any of the following persons may appear at the hearing to support or oppose the petition and may file written objections to the petition·

(1) Any person required to be listed in the petition.

(2) Any creditor of the ward or conservatee or of the estate.

(3) Any other interested person

(b) If the court determines that the transfer requested in the petition will be for the best interests of the ward or conservatee, it shall make an order transferring the proceeding to the other county.

2216 (a) Upon the order of transfer, the clerk shall transmit to the clerk of the court to which the proceeding is transferred a

certified or exemplified copy of the order, together with all papers in the proceeding on file with the clerk.

(b) The clerk of the court from which the removal is made shall receive no fee therefor but shall be paid out of the estate all expenses incurred by the clerk in the removal. The clerk of the court to which the proceeding is transferred shall be entitled to such fees as are payable on the filing of a like original proceeding.

CHAPTER 3. TEMPORARY GUARDIANS AND CONSERVATORS

2250. (a) On or after the filing of a petition for appointment of a guardian or conservator, any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of:

(1) A temporary guardian of the person or estate or both.

(2) A temporary conservator of the person or estate or both.

(b) The petition shall state facts which establish good cause for appointment of the temporary guardian or temporary conservator. The court, upon such petition or other showing as it may require, may appoint a temporary guardian of the person or estate or both, or a temporary conservator of the person or estate or both, to serve pending the final determination of the court upon the petition for the appointment of the guardian or conservator.

(c) Unless the court for good cause otherwise orders, not less than five days before the appointment of the temporary guardian or temporary conservator, notice of the proposed appointment shall be personally delivered to the proposed ward if 14 years of age or older or to the proposed conservatee. The appointment of the temporary guardian or temporary conservator may be made with or without notice to other persons as the court may require

(d) One petition may request the appointment of a guardian or conservator and also the appointment of a temporary guardian or conservator or such appointments may be requested in separate petitions.

(e) If the court suspends powers of the guardian or conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary guardian or conservator to exercise those powers until the powers are restored to the guardian or conservator or a new guardian or conservator is appointed

2251. A temporary guardian or temporary conservator shall be issued letters of temporary guardianship or conservatorship upon taking the oath and filing the bond as in the case of a guardian or conservator The letters shall indicate the termination date of the temporary appointment.

2252. (a) Except as otherwise provided in subdivisions (b) and (c), a temporary guardian or temporary conservator has only the power and authority, and only the duties, of a guardian or conservator that are necessary to provide for the temporary care,

maintenance, and support of the ward or conservatee and that are necessary to conserve and protect the property of the ward or conservatee from loss or injury.

(b) Unless the court otherwise orders:

(1) A temporary guardian of the person has the powers and duties specified in Section 2353 (medical treatment).

(2) A temporary conservator of the person has the powers and duties specified in Section 2354 (medical treatment).

(c) The temporary guardian or temporary conservator has such additional powers and duties as may be ordered by the court (1) in the order of appointment or (2) by subsequent order made with or without notice as the court may require.

(d) The terms of any order made under subdivision (b) or (c) shall be included in the letters of temporary guardianship or conservatorship.

(e) A temporary conservator shall not be permitted to sell or relinquish, on the conservatee's behalf, any lease or estate in real or personal property used as or within the conservatee's place of residence without the specific approval of the court. Such approval shall be granted only if the conservatee has been served with notice of the hearing, such notice to be personally delivered to the temporary conservatee unless the court for good cause otherwise orders, and only if the court finds that the conservatee will be unable to return to the residence and exercise dominion over it and that such action is necessary to avert irreparable harm to the conservatee. The temporary conservator shall not be permitted to sell or relinquish on the conservatee's behalf any estate or interest in other real or personal property without specific approval of the court, which may be granted only upon a finding that such action is necessary to avert irreparable harm to the conservatee. A finding of irreparable harm as to real property may be based upon a reasonable showing that the real property is vacant, that it cannot reasonably be rented, and that it is impossible or impractical to obtain fire or liability insurance on the property.

2253. (a) If a temporary conservator of the person proposes to fix the residence of the conservatee at a place other than that where the conservatee resided prior to the commencement of the proceedings, such power shall be requested of the court in writing, unless such change of residence is required of the conservatee by a prior court order. The request shall be filed with the petition for temporary conservatorship or, if a temporary conservatorship has already been established, separately. The request shall specify in particular the place to which the temporary conservator proposes to move the conservatee, and the precise reasons why it is believed that the conservatee will suffer irreparable harm if such change of residence is not permitted, and why no means less restrictive of the conservatee's liberty will suffice to prevent such harm

(b) If the court so directs, the court investigator shall do all of the following.

(1) Interview the conservatee personally.

(2) Inform the conservatee of the nature, purpose, and effect of the request made under subdivision (a), and of the right of the conservatee to oppose the request, attend the hearing, be represented by legal counsel if the conservatee so chooses, and to have legal counsel appointed by the court if unable to obtain legal counsel.

(3) Determine whether the conservatee is unable to attend the hearing because of medical inability and, if able to attend, whether the conservatee is willing to attend the hearing.

(4) Determine whether the conservatee wishes to oppose the request.

(5) Determine whether the conservatee wishes to be represented by legal counsel at the hearing and, if so, whether the conservatee has retained legal counsel and, if not, the name of an attorney the proposed conservatee wishes to retain or whether the conservatee desires the court to appoint legal counsel.

(6) If the conservatee does not plan to retain legal counsel and has not requested the appointment of legal counsel by the court, determine whether the appointment of legal counsel would be helpful to the resolution of the matter or is necessary to protect the interests of the conservatee.

(7) Determine whether the proposed change of place of residence is required to prevent irreparable harm to the conservatee and whether no means less restrictive of the conservatee's liberty will suffice to prevent such harm.

(8) Report to the court in writing, at least two days before the hearing, concerning all of the foregoing, including the conservatee's express communications concerning representation by legal counsel and whether the conservatee is not willing to attend the hearing and does not wish to oppose the request.

(c) Within seven days of the date of filing of a temporary conservator's request to remove the conservatee from his or her previous place of residence, the court shall hold a hearing on the request.

(d) The conservatee shall be present at the hearing except in the following cases:

(1) Where the conservatee is unable to attend the hearing by reason of medical inability. Emotional or psychological instability is not good cause for the absence of the conservatee from the hearing unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage to the conservatee.

(2) Where the court investigator has reported to the court that the conservatee has expressly communicated that the conservatee is not willing to attend the hearing and does not wish to oppose the request, and the court makes an order that the conservatee need not attend the hearing.

(e) If the conservatee is unable to attend the hearing because of

medical inability, such inability shall be established (1) by the affidavit or certificate of a licensed medical practitioner or (2) if the conservatee is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing and is under treatment by an accredited practitioner of that religion, by the affidavit of the practitioner. The affidavit or certificate is evidence only of the conservatee's inability to attend the hearing and shall not be considered in determining the issue of need for the establishment of a conservatorship.

(f) At the hearing, the conservatee has the right to be represented by counsel and the right to confront and cross-examine any witness presented by or on behalf of the temporary conservator and to present evidence on his or her own behalf

(g) The court may approve the request to remove the conservatee from the previous place of residence only if the court finds (1) that change of residence is required to prevent irreparable harm to the conservatee and (2) that no means less restrictive of the conservatee's liberty will suffice to prevent such harm. If an order is made authorizing the temporary conservator to remove the conservatee from the previous place of residence, the order shall specify the specific place wherein the temporary conservator is authorized to place the conservatee. The temporary conservator shall not be authorized to remove the conservatee from the State of California unless it is additionally shown that such removal is required to permit the performance of specified nonpsychiatric medical treatment, consented to by the conservatee, which is essential to the conservatee's physical survival. A temporary conservator who willfully removes a temporary conservatee from the State of California without authorization of the court is guilty of a felony

(h) Subject to subdivision (e) of Section 2252, the court shall also order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence.

2254. (a) Notwithstanding Section 2253, a temporary conservator may remove a temporary conservatee from the temporary conservatee's place of residence without court authorization if an emergency exists. For the purposes of this section, an emergency exists if the temporary conservatee's place of residence is unfit for habitation or if the temporary conservator determines in good faith based upon medical advice that the case is an emergency case in which removal from the place of residence is required (1) to provide medical treatment needed to alleviate severe pain or (2) to diagnose or treat a medical condition which, if not immediately diagnosed and treated, will lead to serious disability or death.

(b) No later than one judicial day after the emergency removal of the temporary conservatee, the temporary conservator shall file a written request pursuant to Section 2253 for authorization to fix the

residence of the temporary conservatee other than the temporary conservatee's previous place of residence.

(c) Nothing in this chapter prevents a temporary conservator from removing a temporary conservatee from the place of residence to a health facility for treatment without court authorization when the temporary conservatee has given informed consent to the removal.

(d) Nothing in this chapter prevents a temporary conservator from removing a temporary conservatee without court authorization from one health facility where the conservatee is receiving medical care to another health facility where the conservatee will receive medical care.

2255. (a) Except as provided in subdivision (b), an inventory and appraisement of the estate shall be filed by the temporary guardian or temporary conservator of the estate as required by Article 2 (commencing with Section 2610) of Chapter 7.

(b) A temporary guardian or temporary conservator of the estate may inventory the estate in the final account, without the necessity for an appraisal of the estate, if the final account is filed within 90 days after the appointment of the temporary guardian or temporary conservator.

2256. (a) Except as provided in subdivision (b), the temporary guardian or temporary conservator of the estate shall present his or her account to the court for settlement and allowance within 90 days after the appointment of a guardian or conservator of the estate or within such other time as the court may fix.

(b) If the temporary guardian or temporary conservator of the estate is appointed guardian or conservator of the estate, the guardian or conservator may account for the administration as temporary guardian or temporary conservator in his or her first regular account.

(c) Accounts are subject to Sections 2621 to 2626, inclusive, Sections 2630 to 2633, inclusive, and Sections 2640 to 2642, inclusive.

2257. (a) Except as provided in subdivision (b), the powers of a temporary guardian or temporary conservator terminate (except for the rendering of the account) at the earliest of the following times:

(1) The time the temporary guardian or conservator acquires notice that a guardian or conservator is appointed and qualified.

(2) Thirty days after the appointment of the temporary guardian or temporary conservator or such earlier time as the court may specify in the order of appointment

(b) With or without notice as the court may require, the court may for good cause order that the time for the termination of the powers of the temporary guardian or temporary conservator be extended pending final determination by the court of the petition for appointment of a guardian or conservator or pending the final decision on appeal therefrom or for other cause The order which extends the time for termination shall fix the time when the powers of the temporary guardian or temporary conservator terminate

except for the rendering of the account.

2258. A temporary guardian or temporary conservator is subject to the provisions of this division governing the suspension, removal, resignation, and discharge of a guardian or conservator.

CHAPTER 4. OATH, LETTERS, AND BOND

Article 1. Requirement of Oath and Bond

2300. Before the appointment of a guardian or conservator is effective, the guardian or conservator shall:

(a) Take an oath to perform the duties of the office according to law, which oath shall be attached to or endorsed upon the letters of guardianship or conservatorship.

(b) File the required bond if a bond is required.

Article 2. Letters

2310. The appointment, the taking of the oath, and the filing of the bond, if required, shall thereafter be evidenced by the issuance by the clerk of the court of letters of conservatorship or guardianship, as the case may be.

2311. Except as otherwise required by the order of appointment, the letters shall be in substantially the same form as letters of administration.

2312. Before letters of guardianship or conservatorship may be issued, a copy of the order of the court appointing the guardian or conservator shall be mailed to the ward if 14 years of age or older or to the conservatee.

Article 3. Bonds of Guardians and Conservators

2320. (a) Except as otherwise provided by statute:

(1) Every guardian and conservator shall furnish a bond in the amount fixed by the court, conditioned upon the faithful execution of the duties of the office according to law, to protect the ward or conservatee and all persons interested in the guardianship or conservatorship estate.

(2) Unless the court increases or decreases the amount upon a showing of good cause, the amount of the bond shall be the lowest amount permitted under Section 541 for a bond given under that section by an authorized surety company.

(b) If the sureties on the bond are individual persons, the bond shall be one approved by the court and shall be for twice the amount required for a bond given by an authorized surety company.

2321. In a conservatorship proceeding, where the conservatee, having sufficient capacity to do so, has waived the filing of a bond, the court in its discretion may dispense with the requirement that a bond be filed or may permit the filing of a bond in an amount less

than would otherwise be required under Section 2320.

2322. One appointed only as guardian of the person or conservator of the person need not file a bond unless required by the court

2323. (a) The court may dispense with the requirement of a bond if it appears likely that the estate will satisfy the conditions of subdivision (b) of Section 2628 for its duration.

(b) If at any time it appears that the estate does not satisfy the conditions of subdivision (b) of Section 2628, the court may require the filing of a bond

2324. If the person making the nomination has waived the filing of the bond, a guardian nominated under Section 1500 or 1501 need not file a bond unless required by the court.

2325. The surety on the bond of a nonprofit charitable corporation described in Section 2104 shall be an authorized surety company.

2326. (a) If joint guardians or conservators are appointed, the court may order that separate bonds or a joint bond or a combination thereof be furnished.

(b) If a joint bond is furnished, the liability on the bond is joint and several.

2327. If the proceeding involves more than one ward or conservatee, the court may order separate bonds or a single bond or a combination thereof.

2328. (a) In any proceeding to determine the amount of the bond of the guardian or conservator (whether at the time of appointment or subsequently), if the estate includes money, securities, or personal property which has been or will be deposited in a bank in this state or in a trust company authorized to transact a trust business in this state, or money which has been or will be invested in an account in an insured savings and loan association, upon condition that the money, securities, or other property, including any earnings thereon, will not be withdrawn except on authorization of the court, the court, in its discretion, with or without notice, may so order and may do either of the following:

(1) Exclude such money, securities, and other property in determining the amount of the required bond or reduce the amount of the bond to be required in respect to such money, securities, or other property to such an amount as the court determines is reasonable

(2) If a bond has already been furnished or the amount fixed, reduce the amount to such an amount as the court determines is reasonable

(b) The petitioner for letters, or the proposed guardian or conservator in advance of appointment of a guardian or conservator, may do any one or more of the following:

(1) Deliver to a bank in this state or a trust company authorized to transact a trust business in this state, money, securities, or personal property in such person's possession

(2) Deliver to an insured savings and loan association money in such person's possession.

(3) Allow a bank in this state or a trust company authorized to transact a trust business in this state to retain such money, securities, and personal property already in its possession.

(4) Allow an insured savings and loan association to retain any such money already invested with it.

(c) In the cases described in subdivision (b), the petitioner or proposed guardian or conservator shall obtain and file with the court a written receipt including the agreement of the bank, trust company, or insured savings and loan association that the money, securities, or other property, including any earnings thereon, shall not be allowed to be withdrawn except upon authorization of the court.

(d) In receiving and retaining money, securities, or other property under subdivisions (b) and (c), the bank, trust company, or insured savings and loan association shall be protected to the same extent as though it had received the money, securities, or other property from a person to whom letters had been issued.

2329. (a) A guardian or conservator may apply to the court for reduction in the amount of the bond. The application shall be made by filing a petition setting forth the condition of the estate.

(b) Notice of hearing shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1. Upon the hearing, the court may reduce the amount of the bond to such amount as the court in its discretion determines is proper under the circumstances; but, except upon a showing of good cause, the amount of the bond shall not be reduced below the amount determined pursuant to Section 2320.

(c) The guardian or conservator may furnish new sureties who may be the same sureties as on the previous bond and who shall qualify for the reduced amount.

(d) Nothing in this section limits the authority of the court to reduce the amount of the bond with or without notice under Section 2328.

2330. Upon the confirmation of the sale of any real property of an estate, or upon the authorization of any mortgage or deed of trust with respect to real property of an estate by which money is to be raised, the guardian or conservator shall furnish such additional bond as is required by the court in order to make the sum of the bonds furnished by the guardian or conservator equal to the amount determined pursuant to Section 2320, taking into account the proceeds of the sale or mortgage or deed of trust.

2331. (a) A guardian or conservator may, instead of furnishing the required surety bond, file with the clerk of the court a cash bond, or an assigned interest in an account in a bank in this state or in an insured savings and loan association, or deposit with the clerk bearer or endorsed bonds of the United States or of the State of California, in the sum required for a surety bond given by an authorized surety

company.

(b) The security furnished under subdivision (a) is subject to increase or decrease as provided with respect to the surety bond, shall be conditioned the same as required of the surety bond, and is returnable to the guardian or conservator on the termination of the service of the guardian or conservator or on later substitution of a surety bond or other adequate security.

2332 Every bond given by a guardian or conservator shall be filed and preserved in the office of the clerk of the court.

2333 (a) In case of a breach of a condition of the bond, an action may be brought against the sureties on the bond for the use and benefit of the ward or conservatee or of any person interested in the estate.

(b) Except as provided in subdivision (c), no action may be maintained against the sureties on the bond unless commenced within three years from the discharge or removal of the guardian or conservator or within three years from the date the order surcharging the guardian or conservator becomes final, whichever is later.

(c) If at the time of the discharge or removal of the guardian or conservator or when the order of surcharge becomes final any person entitled to bring the action is under any legal disability to sue, such person may commence the action within three years after the disability is removed.

2334. (a) The ward or conservatee, or the spouse or any relative or friend of the ward or conservatee, or any interested person may apply to the court for an order that the guardian or conservator be required to furnish further security. The application shall be made by a petition showing that the sureties on the bond furnished by the guardian or conservator have become, or are becoming, insolvent, or that they have removed or are about to remove from the state, or that from any other cause the bond is insufficient.

(b) If it comes to the knowledge of the court that the bond of a guardian or conservator is from any cause insufficient, the court may on its own motion, without any application, make an order requiring the guardian or conservator to furnish further security.

(c) If the court is satisfied from the petition or from its own information that the matter requires investigation, the court shall issue a citation to the guardian or conservator directing the guardian or conservator to appear before the court at a designated time and place to show cause why further security should not be required The citation shall be served on the guardian or conservator personally at least 15 days before the return day. If the guardian or conservator cannot be found after due diligence and inquiry, the citation may be served in such manner as the court may order which is reasonably calculated to give actual notice to the guardian or conservator. On the return of the citation or at such other time as the court may fix, the court shall proceed to hear the matter, and if it satisfactorily appears that the security, from any cause, is insufficient, the court

shall make an order requiring the guardian or conservator to give further security, or to file a new bond, within a reasonable time, not less than five days.

(d) If sufficient security or additional security is not given within the time fixed by the court's order, the court shall remove the guardian or conservator and revoke the letters of guardianship or conservatorship.

(e) When a petition is filed requesting an order under this section that a guardian or conservator be required to give further security, or to give a bond where no bond was originally required, and the petition alleges facts showing that the guardian or conservator is failing to use ordinary care and diligence in the management of the estate, the court, by order, may suspend the powers of the guardian or conservator until the matter can be heard and determined.

2335. (a) A guardian or conservator who desires a substitution and discharge of a surety may file a petition with the court for that purpose together with an accounting. The court shall issue a citation to the existing surety directing the surety to appear before the court at a designated time and place to show cause why the surety should not be substituted and discharged The citation shall be served on the surety personally at least 15 days before the return day If the surety cannot be found after due diligence and inquiry, the citation may be served in such manner as the court may order which is reasonably calculated to give actual notice to the surety.

(b) The court shall hear the matter on the return of the citation or at such other time as the court may appoint. If, upon the hearing, the accounting is approved and it appears to the court that the substitute surety is satisfactory and that no injury can result to the estate, the court may order a substitution of surety and discharge the existing surety from liability on the bond for any subsequent act, default, or misconduct of the guardian or conservator

2336. (a) A surety may apply to the court for an order that the surety be discharged from liability on the bond for any subsequent act, default, or misconduct of the guardian or conservator The court shall issue a citation to the guardian or conservator directing the guardian or conservator to appear before the court at a designated time and place and give other security. The citation shall be served on the guardian or conservator personally at least 15 days before the return day. If the guardian or conservator cannot be found after due diligence and inquiry, the citation may be served in such manner as the court may order which is reasonably calculated to give actual notice to the guardian or conservator.

(b) If the guardian or conservator fails to give new sureties to the satisfaction of the court on the return of the citation or within such reasonable time as the court shall allow, unless the surety making the application consents to a longer extension of time, the court shall remove the guardian or conservator and revoke the letters of guardianship or conservatorship

(c) If new sureties are given to the satisfaction of the court, the

court shall thereupon make an order that the surety who applied for the order shall not be liable on the bond for any subsequent act, default, or misconduct of the guardian or conservator.

CHAPTER 5. POWERS AND DUTIES OF GUARDIAN OR CONSERVATOR OF THE PERSON

2350. As used in this chapter:

(a) "Conservator" means the conservator of the person.

(b) "Guardian" means the guardian of the person.

2351. (a) Subject to subdivision (b), the guardian or conservator has the care, custody, and control of, and has charge of the education of, the ward or conservatee.

(b) Where the court determines that it is appropriate in the circumstances of the particular conservatee, the court, in its discretion, may limit the powers and duties that the conservator would otherwise have under subdivision (a) by an order stating:

(1) The specific powers that the conservator does not have with respect to the conservatee's person and reserving the powers so specified to the conservatee; or

(2) The specific powers and duties the conservator has with respect to the conservatee's person and reserving to the conservatee all other rights with respect to the conservatee's person that the conservator otherwise would have under subdivision (a).

(c) An order under this section (1) may be included in the order appointing a conservator of the person or (2) may be made, modified, or revoked upon a petition subsequently filed, notice of the hearing on such petition having been given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2352. (a) The guardian or conservator may fix the residence of the ward or conservatee at:

(1) Any place within this state without the permission of the court.

(2) A place not within this state if permission of the court is first obtained.

(b) An order under paragraph (2) of subdivision (a) shall require the guardian or conservator either to return the ward or conservatee to this state, or to cause a guardianship or conservatorship proceeding or its equivalent to be commenced in the place of the new residence, when the ward or conservatee has resided in the place of new residence for a period of four months or such longer or shorter period as is specified in the order.

(c) The guardian or conservator shall promptly mail to the court notice of all changes in the residence of the ward or conservatee.

(d) This section does not apply where the court has made an order under Section 2351 pursuant to which the conservatee retains the right to fix his or her own residence.

2353. (a) Subject to subdivision (b), the guardian has the same

right as a parent having legal custody of a child to give consent to medical treatment performed upon the ward and to require the ward to receive medical treatment.

(b) Except as provided in subdivision (c), if the ward is 14 years of age or older, no surgery shall be performed upon the ward without either (1) the consent of both the ward and the guardian or (2) a court order obtained pursuant to Section 2357 specifically authorizing such treatment.

(c) The guardian may consent to surgery to be performed upon the ward, and may require the ward to receive such surgery, in any case where the guardian determines in good faith based upon medical advice that the case is an emergency case in which the ward faces loss of life or serious bodily injury if the surgery is not performed In such a case, the consent of the guardian alone is sufficient and no person is liable because the surgery is performed upon the ward without the ward's consent.

(d) Nothing in this section requires the consent of the guardian for medical or surgical treatment for the ward in any case where the ward alone may consent to such treatment under other provisions of law

2354. (a) If the conservatee has not been adjudicated to lack the capacity to give informed consent for medical treatment, the conservatee may consent to his or her medical treatment. The conservator may also give consent to such medical treatment, but the consent of the conservator is not required if the conservatee has the capacity to give informed consent to the medical treatment, and the consent of the conservator alone is not sufficient under this subdivision if the conservatee objects to the medical treatment.

(b) The conservator may require the conservatee to receive medical treatment, whether or not the conservatee consents to such treatment, if a court order specifically authorizing such medical treatment has been obtained pursuant to Section 2357.

(c) The conservator may consent to medical treatment to be performed upon the conservatee, and may require the conservatee to receive such medical treatment, in any case where the conservator determines in good faith based upon medical advice that the case is an emergency case in which the medical treatment is required because (1) such treatment is required for the alleviation of severe pain or (2) the conservatee has a medical condition which, if not immediately diagnosed and treated, will lead to serious disability or death. In such a case, the consent of the conservator alone is sufficient and no person is liable because the medical treatment is performed upon the conservatee without the conservatee's consent.

2355 (a) If the conservatee has been adjudicated to lack the capacity to give informed consent for medical treatment, the conservator has the exclusive authority to give consent for such medical treatment to be performed on the conservatee as the conservator in good faith based on medical advice determines to be

necessary and the conservator may require the conservatee to receive such medical treatment, whether or not the conservatee objects. In any such case, the consent of the conservator alone is sufficient and no person is liable because the medical treatment is performed upon the conservatee without the conservatee's consent.

(b) If prior to the establishment of the conservatorship the conservatee was an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing, the treatment required by the conservator under the provisions of this section shall be by an accredited practitioner of that religion.

2356. (a) No ward or conservatee shall be placed in a mental health treatment facility under the provisions of this division against the will of the ward or conservatee. Involuntary civil mental health treatment for a ward or conservatee shall be obtained only pursuant to Chapter 2 (commencing with Section 5150) or Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Nothing in this subdivision precludes the placing of a ward in a state hospital under the provisions of Section 6000 of the Welfare and Institutions Code upon application of the guardian as provided in that section. The Director of Mental Health shall adopt and issue regulations defining "mental health treatment facility" for the purposes of this subdivision.

(b) No experimental drug as defined in Section 26668 of the Health and Safety Code may be prescribed for or administered to a ward or conservatee under the provisions of this division. Such an experimental drug may be prescribed for or administered to a ward or conservatee only as provided in Article 4 (commencing with Section 26668) of Chapter 6 of Division 21 of the Health and Safety Code.

(c) No convulsive treatment as defined in Section 5325 of the Welfare and Institutions Code may be performed on a ward or conservatee under the provisions of this division. Such convulsive treatment may be performed on a ward or conservatee only as provided in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

(d) No ward or conservatee may be sterilized under the provisions of this division. A ward or conservatee may be sterilized only as provided in Section 7254 of the Welfare and Institutions Code.

(e) The provisions of this chapter are subject to any valid and effective directive of the conservatee under Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code (Natural Death Act).

2357. (a) As used in this section:

(1) "Guardian or conservator" includes a temporary guardian of the person or a temporary conservator of the person.

(2) "Ward or conservatee" includes a person for whom a temporary guardian of the person or temporary conservator of the person has been appointed.

(b) If the ward or conservatee requires medical treatment for an

existing or continuing medical condition which is not authorized to be performed upon the ward or conservatee under Section 2252, 2353, 2354, or 2355, and the ward or conservatee is unable to give an informed consent to such medical treatment, the guardian or conservator may petition the court under this section for an order authorizing such medical treatment and authorizing the guardian or conservator to consent on behalf of the ward or conservatee to such medical treatment.

(c) The petition shall state, or set forth by medical affidavit attached thereto, all of the following so far as is known to the petitioner at the time the petition is filed:

(1) The nature of the medical condition of the ward or conservatee which requires treatment

(2) The recommended course of medical treatment which is considered to be medically appropriate.

(3) The threat to the health of the ward or conservatee if authorization to consent to the recommended course of treatment is delayed or denied by the court.

(4) The predictable or probable outcome of the recommended course of treatment.

(5) The medically available alternatives, if any, to the course of treatment recommended.

(6) The efforts made to obtain an informed consent from the ward or conservatee

(d) Upon the filing of the petition, the court shall notify the attorney of record for the ward or conservatee, if any, or shall appoint the public defender or private counsel under Section 1471, to consult with and represent the ward or conservatee at the hearing on the petition and, if such appointment is made, Section 1472 applies.

(e) The hearing on the petition may be held pursuant to an order of the court prescribing the notice to be given of the hearing. The order shall specify the period of notice of the hearing and the period so fixed shall take into account (1) the existing medical facts and circumstances set forth in the petition or in a medical affidavit attached to the petition or in a medical affidavit presented to the court and (2) the desirability, where the condition of the ward or conservatee permits, of giving adequate notice to all interested persons.

(f) A copy of the notice of hearing or of the order prescribing notice of hearing, and a copy of the petition, shall be personally served or mailed, as prescribed in the order, on all of the following:

(1) The ward or conservatee.

(2) The attorney of record for the ward or conservatee, if any, or the attorney appointed by the court to represent the ward or conservatee at the hearing

(3) Such other persons, if any, as the court in its discretion may require in the order, which may include the spouse of the ward or conservatee and any known relatives of the ward or conservatee within the second degree.

(g) Notwithstanding subdivisions (e) and (f), the matter may be submitted for the determination of the court upon proper and sufficient medical affidavits or declarations if the attorney for the petitioner and the attorney for the ward or conservatee so stipulate and further stipulate that there remains no issue of fact to be determined

(h) The court may make an order authorizing the recommended course of medical treatment of the ward or conservatee and authorizing the guardian or conservator to consent on behalf of the ward or conservatee to the recommended course of medical treatment for the ward or conservatee if the court determines from the evidence all of the following:

(1) The existing or continuing medical condition of the ward or conservatee requires the recommended course of medical treatment.

(2) If untreated, there is a probability that the condition will become life-endangering or result in a serious threat to the physical health of the ward or conservatee.

(3) The ward or conservatee is unable to give an informed consent to the recommended course of treatment.

(i) Upon petition of the ward or conservatee or other interested person, the court may order that the guardian or conservator obtain or consent to, or obtain and consent to, specified medical treatment to be performed upon the ward or conservatee. Notice of the hearing on the petition under this subdivision shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2358. When a guardian or conservator is appointed, the court may, with the consent of the guardian or conservator, insert in the order of appointment conditions not otherwise obligatory providing for the care, treatment, education, and welfare of the ward or conservatee. Any such conditions shall be included in the letters of guardianship or conservatorship. The performance of such conditions is a part of the duties of the guardian or conservator for the faithful performance of which the guardian or conservator and the sureties on the bond are responsible.

2359. (a) Upon petition of the guardian or conservator or ward or conservatee or other interested person, the court may authorize and instruct the guardian or conservator or approve and confirm the acts of the guardian or conservator.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

CHAPTER 6. POWERS AND DUTIES OF GUARDIAN OR CONSERVATOR OF THE ESTATE

Article 1. Definitions and General Provisions

2400. As used in this chapter:

(a) "Conservator" means the conservator of the estate.

(b) "Guardian" means the guardian of the estate.

2401. (a) The guardian or conservator has the management and control of the estate and, in managing and controlling the estate, shall use ordinary care and diligence. What constitutes use of ordinary care and diligence is determined by all the circumstances of the particular estate.

(b) The guardian or conservator:

(1) Shall exercise a power to the extent that ordinary care and diligence requires that the power be exercised.

(2) Shall not exercise a power to the extent that ordinary care and diligence requires that the power not be exercised.

2402. When a guardian or conservator is appointed, the court may, with the consent of the guardian or conservator, insert in the order of appointment conditions not otherwise obligatory providing for the care and custody of the property of the ward or conservatee. Any such conditions shall be included in the letters of guardianship or conservatorship. The performance of such conditions is a part of the duties of the guardian or conservator for the faithful performance of which the guardian or conservator and the sureties on the bond are responsible.

2403. (a) Upon petition of the guardian or conservator, the ward or conservatee, a creditor, or other interested person, the court may authorize and instruct the guardian or conservator, or approve and confirm the acts of the guardian or conservator, in the administration, management, investment, disposition, care, protection, operation, or preservation of the estate, or the incurring or payment of costs, fees, or expenses in connection therewith.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2404. (a) If the guardian or conservator fails, neglects, or refuses to furnish comfortable and suitable support, maintenance, or education for the ward or conservatee as required by this division, or to pay a debt, expense, or charge lawfully due and payable by the ward or conservatee or the estate as provided in this division, the court shall, upon petition or upon its own motion, order the guardian or conservator to do so from the estate.

(b) The petition may be filed by the ward or conservatee or by the creditor or any other interested person. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2405. If the guardian or conservator doubts the correctness of any claim against the ward or conservatee or the estate or rejects a claim against the ward or conservatee or the estate, the guardian or conservator may do either of the following.

(a) Enter into an agreement in writing with the claimant to refer the matter in controversy to a commissioner or referee who is

regularly attached to the court and designated in the agreement or to a judge pro tempore designated in the agreement. The agreement shall be filed with the clerk, who shall thereupon, with the approval of the court, enter an order referring the matter to the designated person. The commissioner or referee shall have the powers of a judge pro tempore. The designated person shall proceed promptly to hear and determine the matter in controversy by summary procedure, without any pleadings, discovery, or jury trial. The designated person shall make and file a decision in writing in which the facts found and conclusions of law shall be separately stated, and cause a copy thereof to be mailed promptly to the parties. Judgment shall be entered on the decision and shall be as valid and effective as if it had been rendered by a judge of the court in a suit against the guardian or conservator commenced by ordinary process.

(b) Enter into an agreement in writing with the claimant that a judge sitting in probate, pursuant to the agreement and with the written consent of the judge, both filed with the clerk, may hear and determine the matter in controversy pursuant to the procedure provided in subdivision (a).

2406. The guardian or conservator may enter into an agreement in writing with a person having a disputed claim against the ward or conservatee or the estate, or with a person against whom the ward or conservatee or the estate has a disputed claim, to submit the matter in controversy to arbitration under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure, but no such agreement is effective unless it has first been approved by the court and a copy of the approved agreement has been filed in the guardianship or conservatorship proceeding.

2407 This chapter applies to property owned by husband and wife as community property, or owned by husband and wife or either of them which is subject to a homestead, only to the extent authorized by Part 6 (commencing with Section 3000).

Article 2. Support and Maintenance of Ward or Conservatee and Dependents

2420. (a) Subject to Section 2422, the guardian or conservator shall apply the income from the estate, so far as necessary, to the comfortable and suitable support, maintenance, and education of the ward or conservatee (including care, treatment, and support of a ward or conservatee who is a patient in a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services) and of those legally entitled to support, maintenance, or education from the ward or conservatee, taking into account the value of the estate and the condition of life of the persons required to be furnished such support, maintenance, or education.

(b) If the income from the estate is insufficient for the purpose described in subdivision (a), the guardian or conservator may sell or

give a security interest in or other lien on any personal property of the estate, or sell or mortgage or give a deed of trust on any real property of the estate, as provided in this part.

(c) When the amount paid by the guardian or conservator for the purpose described in subdivision (a) satisfies the standard set out in that subdivision, and the payments are supported by proper vouchers or other proof satisfactory to the court, the guardian or conservator shall be allowed credit for such payments when the accounts of the guardian or conservator are settled

(d) Nothing in this section requires the guardian or conservator to obtain court authorization before making the payments authorized by this section, but nothing in this section dispenses with the need to obtain any court authorization otherwise required for a particular transaction.

(e) Nothing in this section precludes the guardian or conservator from seeking court authorization or instructions or approval and confirmation pursuant to Section 2403

2421 (a) Upon petition of the guardian or conservator or the ward or conservatee, the court may authorize the guardian or conservator to pay to the ward or conservatee out of the estate a reasonable allowance for the personal use of the ward or conservatee. The allowance shall be in such amount as the court may determine to be for the best interests of the ward or conservatee.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) The guardian or conservator is not required to account for such allowance other than to establish that it has been paid to the ward or conservatee. The funds so paid are subject to the sole control of the ward or conservatee.

2422 (a) Upon petition of the guardian or conservator, the ward or conservatee, or any other interested person, the court may for good cause order the ward or conservatee to be wholly or partially supported, maintained, or educated out of the estate notwithstanding the existence of a third party legally obligated to provide such support, maintenance, or education. Such order may be made for a limited period of time. If not so limited, it continues in effect until modified or revoked.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1

2423. (a) On petition of the conservator, the conservatee, the spouse of the conservatee, or a relative within the second degree of the conservatee, the court may by order authorize or direct the conservator to pay and distribute surplus income of the estate or any part of such surplus income (not used for the support, maintenance, and education of the conservatee and of those legally entitled to support, maintenance, or education from the conservatee) to the spouse of the conservatee and to such relatives within the second

degree of the conservatee whom the conservatee would, in the judgment of the court, have aided but for the existence of the conservatorship. The court in ordering payments under this section may impose conditions if the court determines that the conservatee would have imposed such conditions if the conservatee had the capacity to act.

(b) The granting of the order and the amounts and proportions of the payments are discretionary with the court, but the court shall consider all of the following:

(1) The amount of surplus income available after adequate provision has been made for the comfortable and proper support, maintenance, and education of the conservatee and of those legally entitled to support, maintenance, or education from the conservatee.

(2) The circumstances and condition of life to which the conservatee and the spouse and such relatives have been accustomed.

(3) The amount which the conservatee would in the judgment of the court have allowed the spouse and such relatives but for the existence of the conservatorship.

(c) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

Article 3. Payment of Debts and Expenses

2430. (a) Subject to subdivisions (b) and (c), the guardian or conservator shall pay the following from any principal and income of the estate:

(1) The debts incurred by the ward or conservatee before creation of the guardianship or conservatorship, giving priority to the debts described in Section 2431 to the extent required by that section.

(2) The debts incurred by the ward or conservatee during the guardianship or conservatorship to provide the necessaries of life to the ward or conservatee, and to the spouse and minor children of the ward or conservatee, to the extent the debt is reasonable. The guardian or conservator may deduct the amount of any payments for such debts from any allowance otherwise payable to the ward or conservatee.

(3) In the case of a conservatorship, any other debt incurred by the conservatee during the conservatorship only if the debt satisfies the requirements of any order made under Chapter 4 (commencing with Section 1870) of Part 3.

(4) The reasonable expenses incurred in the collection, care, and administration of the estate, but court authorization is required for payment of compensation to any of the following:

(i) The guardian or conservator of the person or estate or both.

(ii) An attorney for the guardian or conservator of the person or estate or both

(iii) An attorney for the ward or conservatee.

(iv) An attorney for the estate.

(b) The payments provided for by paragraph (3) of subdivision (a) are not required to be made to the extent such payments would impair the ability to provide necessaries of life to the conservatee and the spouse and minor children of the conservatee.

(c) The guardian or conservator may petition the court under Section 2403 for instructions when there is doubt whether a debt should be paid under this section.

2431. (a) Subject to subdivision (d), the guardian or conservator may petition the court under Section 2403 for instructions when there is doubt whether a wage claim should be paid under this section

(b) The guardian or conservator shall promptly pay wage claims for work done or services rendered for the ward or conservatee within 30 days prior to the date the petition for appointment of the guardian or conservator was filed. The payments made pursuant to this subdivision shall not exceed six hundred dollars ($600) to each claimant If there is insufficient money to pay all the claims described in this subdivision up to six hundred dollars ($600), the money available shall be distributed among such claimants in proportion to the amount of their respective claims.

(c) After the payments referred to in subdivision (b) have been made, the guardian or conservator shall pay wage claims for work done or services rendered for the ward or conservatee within 90 days prior to the date the petition for appointment of the guardian or conservator was filed, excluding the claims described in subdivision (b) The payments made pursuant to this subdivision shall not exceed six hundred dollars ($600) to each claimant. If there is insufficient money to pay all the claims described in this subdivision up to six hundred dollars ($600), the money available shall be distributed among such claimants in proportion to the amounts of their respective claims.

(d) The guardian or conservator may require sworn claims to be presented If there is reasonable cause to believe that the claim is not valid, the guardian or conservator may refuse to pay the claim in whole or in part but shall pay any part thereof that is not disputed without prejudice to the claimant's rights as to the balance of the claim. The guardian or conservator shall withhold sufficient money to cover the disputed portion until the claimant has had a reasonable opportunity to establish the validity of the claim by bringing an action, either in the claimant's own name or through an assignee, against the guardian or conservator

(e) If the guardian or conservator neglects or refuses to pay all or any portion of a claim which is not in dispute, the court shall order the guardian or conservator to do so upon the informal application of any wage claimant or the assignee or representative of such claimant

Article 4. Estate Management Powers Generally

2450. (a) Unless this article specifically provides a proceeding to obtain court authorization or requires court authorization, the powers and duties set forth in this article may be exercised or performed by the guardian or conservator without court authorization, instruction, approval, or confirmation. Nothing in this subdivision precludes the guardian or conservator from seeking court authorization, instructions, approval, or confirmation pursuant to Section 2403.

(b) Upon petition of the ward or conservatee, a creditor, or any other interested person, or upon the court's own motion, the court may limit the authority of the guardian or conservator under subdivision (a) as to a particular power or duty or as to particular powers or duties. Notice of the hearing on a petition under this subdivision shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2451. The guardian or conservator may collect debts and benefits due to the ward or conservatee and the estate.

2452. The guardian or conservator may endorse and cash or deposit any checks, warrants, or drafts payable to the ward or conservatee which constitute property of the estate.

2453. The guardian or conservator may deposit money belonging to the estate in a bank in this state or in a trust company authorized to transact a trust business in this state or may invest such money in an account in an insured savings and loan association or in shares of an insured credit union. The money may be withdrawn without order of court.

2454. The guardian or conservator may deposit personal property of the estate with a trust company authorized to transact a trust business in this state as provided in Section 2328 or as provided by the Banking Law, Division 1 (commencing with Section 99) of the Financial Code. Unless otherwise provided by court order, the personal property may be withdrawn without order of court.

2455. (a) Securities which constitute all or part of the estate may be deposited in a securities depository as defined in Section 30004 of the Financial Code which is either licensed under Chapter 2 (commencing with Section 30200) of Division 14 of the Financial Code or is exempted from such licensing by Section 30005 or 30006 of the Financial Code.

(b) If the securities have been deposited with a trust company pursuant to Section 2328 or Section 2454, the trust company may deposit the securities in a securities depository as provided in subdivision (a).

(c) The securities depository may hold securities deposited with it in the manner authorized by Section 775 of the Financial Code

2456. Upon application of the guardian or conservator, the court may, with or without notice, order that

(a) All or a portion of the money of the estate be deposited in a

bank in this state or in a trust company authorized to transact a trust business in this state or be invested in an account in an insured savings and loan association or in shares of an insured credit union or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court.

(b) All or a portion of the personal property of the estate be deposited with a trust company authorized to transact a trust business in this state, subject to withdrawal only upon authorization of the court.

2457. The guardian or conservator may maintain in good condition and repair the home or other dwelling of either or both of the following:

(a) The ward or conservatee.

(b) The persons legally entitled to such maintenance and repair from the ward or conservatee.

2458. With respect to any shares of stock of a domestic or foreign corporation held in the estate, any membership in a nonprofit corporation held by the estate, or any other property held in the estate, a guardian or conservator may do any or all of the following:

(a) Vote in person, and give proxies to exercise, any voting rights with respect to such shares or memberships or property.

(b) Waive notice of any meeting or give consent to the holding of any meeting.

(c) Authorize, ratify, approve, or confirm any action which could be taken by shareholders, members, or property owners.

2459. (a) The guardian or conservator may obtain, continue, renew, modify, terminate, or otherwise deal in any of the following for the purpose of providing protection to the ward or conservatee or a person legally entitled to support from the ward or conservatee

(1) Medical, hospital, and other health care policies, plans, or benefits.

(2) Disability policies, plans, or benefits.

(b) The conservator may continue in force any of the following in which the conservatee, or a person legally entitled to support, maintenance, or education from the conservatee, has or will have an interest:

(1) Life insurance policies, plans, or benefits

(2) Annuity policies, plans, or benefits.

(3) Mutual fund and other dividend reinvestment plans

(4) Retirement, profit sharing, and employee welfare plans or benefits

(c) The right to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights, or to take similar actions under any of the policies, plans, or benefits described in subdivision (b) may be exercised by the conservator only after authorization or direction by order of the court To obtain such an order, the conservator or other interested person shall petition under Article 10 (commencing with Section 2580).

(d) Notwithstanding subdivision (c), unless the court otherwise orders, the conservator without authorization of the court may borrow on the loan value of an insurance policy to pay the current premiums to keep the policy in force if the conservatee followed that practice prior to the establishment of the conservatorship.

(e) The guardian may give the consent provided in Section 10112 of the Insurance Code without authorization of the court, but the guardian may use funds of the guardianship estate to effect or maintain in force a contract entered into by the ward under Section 10112 of the Insurance Code only after authorization by order of the court. To obtain such an order, the guardian, the ward, or any other interested person shall file a petition showing that it is in the best interest of the ward or of the guardianship estate to do so. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1

(f) Nothing in this section limits the power of the guardian or conservator to make investments as otherwise authorized by this division.

2460. The guardian or conservator may insure:

(a) Property of the estate against loss or damage.

(b) The ward or conservatee, the guardian or conservator, and all or any part of the estate against liability to third persons.

2461 (a) The guardian or conservator may prepare, execute, and file tax returns for the ward or conservatee and for the estate and may exercise options and elections and claim exemptions for the ward or conservatee and for the estate under the applicable tax laws.

(b) Notwithstanding Section 2502, the guardian or conservator may pay, contest, and compromise taxes, penalties, and assessments upon the property of the estate and income and other taxes payable or claimed to be payable by the ward or conservatee or the estate.

2462. Subject to Section 2463, unless another person is appointed for that purpose, the guardian or conservator may:

(a) Institute and maintain actions and proceedings for the benefit of the ward or conservatee or the estate.

(b) Defend actions and proceedings against the ward or conservatee or the estate.

(c) File a petition commencing a case under Title 11 of the United States Code (Bankruptcy) on behalf of the ward or conservatee

2463. (a) The guardian or conservator may commence and prosecute an action for partition of real or personal property, or both, if the court has first made an order authorizing the guardian or conservator to do so The court may make such an order ex parte on a petition filed by the guardian or conservator

(b) The guardian or conservator may consent and agree, without an action, to a partition of the property and to the part to be set off to the estate, and may execute deeds or conveyances to the owners of the remaining interests of the parts to which they may be respectively entitled, if the court has made an order under Article

5 (commencing with Section 2500) authorizing the guardian or conservator to do so.

(c) If the ward or conservatee, or the guardian or conservator as such, is made a defendant in a partition action, the guardian or conservator may defend the action without authorization of the court.

2464. (a) If it is to the advantage of the estate to accept a deed to property which is subject to a mortgage or deed of trust in lieu of foreclosure of the mortgage or sale under the deed of trust, the guardian or conservator may, after authorization by order of the court and upon such terms and conditions as may be imposed by the court, accept a deed conveying the property to the ward or conservatee.

(b) To obtain an order under this section, the guardian or conservator shall file a petition showing the advantage to the estate of accepting the deed. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2465. The guardian or conservator may dispose of or abandon valueless property.

2466. The guardian or conservator may advance the guardian's or conservator's own funds for the benefit of the ward or conservatee or the estate and may reimburse such advances out of the income and principal of the estate first available. With court authorization or approval, interest on the amount advanced may be allowed at the legal rate payable on judgments.

2467. (a) The guardian or conservator continues to have the duty of custody and conservation of the estate after the death of the ward or conservatee pending the delivery thereof to the personal representative of the ward's or conservatee's estate or other disposition according to law.

(b) The guardian or conservator has such powers as are granted to a guardian or conservator under this division as are necessary for the performance of the duty imposed by subdivision (a).

Article 5. Compromise of Claims and Actions; Extension, Renewal, or Modification of Obligations

2500 (a) Subject to subdivisions (b) and (c), the guardian or conservator may do any or all of the following:

(1) Compromise or settle a claim, action, or proceeding by or for the benefit of, or against, the ward or conservatee, the guardian or conservator, or the estate.

(2) Extend, renew, or in any manner modify the terms of an obligation owing to or running in favor of the ward or conservatee or the estate.

(b) Unless this article or some other applicable statute requires court approval, the power set forth in subdivision (a) may be exercised or performed by the guardian or conservator without court

authorization, instruction, approval, or confirmation. Nothing in this subdivision precludes the guardian or conservator from seeking court authorization, instructions, approval, or confirmation pursuant to Section 2403.

(c) Upon petition of the ward or conservatee, a creditor, or any interested person, or upon the court's own motion, the court may limit the authority of the guardian or conservator under subdivision (a). Notice of the hearing on a petition under this subdivision shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2501. (a) Except as provided in subdivision (b), court approval is required for a compromise, settlement, extension, renewal, or modification which affects:

(1) Title to real property

(2) An interest in real property or a lien or encumbrance on real property.

(3) An option to purchase real property or an interest in real property

(b) Subdivision (a) does not apply to an extension, renewal, or modification of a lease of real property having an unexpired term of two years or less where, under the lease as extended, renewed, and modified, (1) the rental does not exceed seven hundred fifty dollars ($750) a month and the term does not exceed two years or (2) regardless of the amount of the rental, the lease is from month to month.

2502. Court approval is required for a compromise or settlement of a matter when the transaction requires the transfer or encumbrance of assets of the estate, or the creation of an unsecured liability of the estate, or both, in an amount or value in excess of twenty-five thousand dollars ($25,000)

2503. Court approval is required for

(a) A compromise or settlement of a claim by the ward or conservatee against the guardian or conservator, whether or not the claim arises out of the administration of the estate.

(b) An extension, renewal, or modification of the terms of a debt or similar obligation of the guardian or conservator owing to or running in favor of the ward or conservatee or the estate.

2504. Court approval is required for the compromise or settlement of any of the following.

(a) A claim for the support, maintenance, or education of (1) the ward or conservatee, or (2) a person whom the ward or conservatee is legally obligated to support, maintain, or educate, against any other person (including but not limited to the spouse or parent of the ward or the spouse, parent, or adult child of the conservatee).

(b) A claim of the ward or conservatee for wrongful death

(c) A claim of the ward or conservatee for physical or nonphysical harm to the person.

2505 (a) Subject to subdivision (c), when the claim or matter is the subject of a pending action or proceeding, the court approval

required by this article shall be obtained from the court in which the action or proceeding is pending.

(b) When the claim or matter is not the subject of a pending action or proceeding, the court approval required by this article shall be obtained from one of the following:

(1) The court in which the guardianship or conservatorship proceeding is pending.

(2) The superior court of the county where the ward or conservatee or guardian or conservator resides at the time the petition for approval is filed.

(3) The superior court of any county where a suit on the claim or matter properly could be brought.

(c) When the claim or matter is the subject of a pending action or proceeding that is not brought in a court of this state, court approval required by this article shall be obtained from either of the following:

(1) The court in which the action or proceeding is pending.

(2) The court in which the guardianship or conservatorship proceeding is pending.

2506. Where approval of the court in which the guardianship or conservatorship proceeding is pending is required under this article, the guardian or conservator shall file a petition with the court showing the advantage of the compromise, settlement, extension, renewal, or modification to the ward or conservatee and the estate. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2507. Notwithstanding Sections 2500 to 2506, inclusive:

(a) Whenever another statute requires, provides a procedure for, or dispenses with court approval of a compromise, settlement, extension, renewal, or modification, the provisions of that statute govern any case to which that statute applies.

(b) Whenever another statute provides that a compromise or settlement of an administrative proceeding is not valid unless approved in such proceeding, the approval shall be governed by that statute, and approval in the guardianship or conservatorship proceeding is not required.

Article 6. Conveyance or Transfer of Property Claimed to Belong to Ward or Conservatee or Other Person

2520. (a) The guardian or conservator or any claimant may file a petition requesting that the court make an order under this article in any of the following cases:

(1) Where the conservatee is bound by a contract in writing to convey real property or to transfer personal property, executed by the conservatee while competent or executed by the conservatee's predecessor in interest, and the contract is one that can be specifically enforced

(2) Where the ward has succeeded to the interest of a person bound by a contract in writing to convey real property or to transfer personal property, and the contract is one that can be specifically enforced.

(3) Where the guardian or conservator or the ward or conservatee is in possession of, or holds title to, real or personal property, and the property or some interest therein is claimed to belong to another.

(4) Where the ward or conservatee has a claim to real or personal property title to or possession of which is held by another

(b) The petition shall set forth facts upon which the claim is based.

2521 (a) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1

(b) At least 30 days prior to the day of the hearing, the petitioner shall also cause notice of the hearing and a copy of the petition to be served in accordance with Title 5 (commencing with Section 410.10) of Part 2 of the Code of Civil Procedure on any person (other than the petitioner, guardian or conservator, or ward or conservatee) claiming an interest in, or having title to or possession of, the property

2522 Any interested person may request time for filing a response to the petition, for discovery proceedings, or for other preparation for the hearing, and the court shall grant a continuance for a reasonable time for any of such purposes

2523 If the matter concerns real property, notice of the pendency of the proceeding may be filed pursuant to Section 409 of the Code of Civil Procedure

2524 Any person having or claiming title to or an interest in the property which is the subject of the petition may, at or prior to the hearing, object to the hearing of the petition if the petition is filed in a court which is not the proper court under any other provision of law for the trial of a civil action seeking the same relief and, if such objection be established, the court shall not grant the petition

2525 If a civil action is pending with respect to the subject matter of a petition filed pursuant to this article and jurisdiction has been obtained in the court where the civil action is pending, upon request of any party to the civil action, the court shall abate the petition until the conclusion of the civil action

2526 The court shall not grant a petition under this article if the court determines that the matter should be determined by a civil action.

2527 Except as provided in Sections 2524, 2525, and 2526, if the court is satisfied that a conveyance, transfer, or other order should be made, the court shall make an order authorizing and directing the guardian or conservator or other person having title to or possession of the property to execute a conveyance or transfer to the person entitled thereto or granting other appropriate relief

2528 (a) The guardian or conservator or other person ordered to execute a conveyance or transfer under Section 2527 shall execute

the conveyance or transfer according to the terms of the order, and the court may enforce its execution by process.

(b) After entry of an order that the guardian or conservator or other person execute a conveyance or transfer, the person entitled thereunder has the right to the possession of the property, and the right to hold the property, according to the terms of the order as if the property had been conveyed or transferred in accordance with the terms of the order.

Article 7 Sales

2540. Except as otherwise provided in Sections 2544 and 2545, sales of real or personal property of the estate under this article are subject to authorization, confirmation, or direction of the court, as provided in this article

2541. The guardian or conservator may sell real or personal property of the estate in any of the following cases:

(a) The income of the estate is insufficient for the comfortable and suitable support, maintenance, and education of the ward or conservatee (including care, treatment, and support of the ward or conservatee if a patient in a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services) or of those legally entitled to support, maintenance, or education from the ward or conservatee

(b) The personal property of the estate and the income from real property of the estate is insufficient to pay the debts referred to in Sections 2430 and 2431.

(c) It is for the advantage, benefit, and best interest of (1) the ward or conservatee, (2) the estate, or (3) the ward or conservatee and those legally entitled to support, maintenance, or education from the ward or conservatee

2542. (a) All sales shall be for cash or for part cash and part deferred payments Except as otherwise provided in Sections 2544 and 2545, the terms of sale are subject to the approval of the court

(b) If real property is sold for part deferred payments·

(1) The guardian or conservator shall demand and receive from the purchaser a note and a mortgage or deed of trust on the property sold with such additional security as the court determines is necessary and sufficient to secure the prompt payment of the amounts so deferred and the interest thereon

(2) The mortgage or deed of trust shall be subject only to encumbrances existing at date of sale and such other encumbrances as the court may approve.

(c) If real or personal property of the estate sold for part deferred payments consists of an undivided interest, a joint tenancy interest, or any other interest less than the entire ownership, and the owner or owners of the remaining interests in the property join in the sale, the note and deed of trust or mortgage may be made to the ward or conservatee and the other owner or owners.

2543. (a) Sales may be at public auction or private sale, as the guardian or conservator deems best.

(b) Subject to Section 1469, unless otherwise specifically provided in this article, all proceedings concerning sales by guardians or conservators, giving notice of sale, reselling the same property, return of sale and application for confirmation thereof, notice and hearing of such application, making orders authorizing sales, rejecting or confirming sales and reports of sales, ordering and making conveyances of property sold, and allowance of commissions, shall conform, as nearly as may be, to the provisions of this code concerning sales by administrators, other than the Independent Administration of Estates Act, Article 2 (commencing with Section 591) of Chapter 8 of Division 3.

(c) The clerk of the court shall cause notice to be posted at the courthouse of the county where the proceedings described in subdivision (b) are pending only in the following cases:

(1) Where posting of notice of hearing is required on a petition for the confirmation of a sale of real or personal property of the estate.

(2) Where posting of notice of a sale governed by Section 772 (sales of personal property) is required or authorized.

(3) In any case where posting of notice is ordered by the court.

2544. (a) Except as specifically limited by order of the court, subject to Section 2541, the guardian or conservator may sell any of the following without authorization, confirmation, or direction of the court·

(1) Direct obligations of the United States.

(2) Stocks, bonds, and other securities which are listed and subject to purchase and sale on an established stock or bond exchange in the United States.

(b) Sales under paragraph (2) of subdivision (a) shall be made on the established stock or bond exchange

(c) Section 2543 does not apply to sales under this section

2545. (a) Subject to subdivisions (b) and (c) and to Section 2541, the guardian or conservator may sell or exchange tangible personal property of the estate without authorization, confirmation, or direction of the court.

(b) The aggregate of the sales or exchanges made during any calendar year under this section may not exceed five thousand dollars ($5,000).

(c) A sale or exchange of personal effects or of furniture or furnishings used for personal, family, or household purposes may be made under this section only if:

(1) In the case of a guardianship, the ward is under the age of 14 or, if 14 years of age or over, consents to the sale or exchange.

(2) In the case of a conservatorship, the conservatee either (i) consents to the sale or exchange or (ii) the conservatee does not have legal capacity to give such consent.

(d) Failure of the guardian or conservator to observe the limitations of subdivision (b) or (c) does not invalidate the title of,

or impose any liability upon, a third person who acts in good faith and without actual notice of the lack of authority of the guardian or conservator.

(e) Subdivision (b) of Section 2543 does not apply to sales under this section.

2546. Agreements for the sale of, or for giving options to purchase, mining claims or real property worked as mines may be executed by the guardian or conservator only after authorization by order of the court. Except as provided in Section 1469, the proceedings to obtain such an order and the proceedings thereunder shall conform, as nearly as may be, to the provisions of this code concerning similar proceedings by administrators.

2547. The guardian or conservator shall apply the proceeds of the sale to the purposes for which it was made, as far as necessary, and the residue, if any, shall be managed as the other assets of the estate.

2548. No action for the recovery of any property sold by a guardian or conservator may be maintained by the ward or conservatee or by any person claiming under the ward or conservatee unless commenced within the later of the following times:

(a) Three years after the termination of the guardianship or conservatorship.

(b) When a legal disability to sue exists by reason of minority or otherwise at the time the cause of action accrues, within three years after the removal thereof.

Article 8. Notes, Mortgages, Leases, Conveyances, and Exchanges

2550 Except as otherwise provided by statute, a guardian or conservator may borrow money, give security, lease, convey, or exchange property of the estate, or engage in any other transaction under this article only after authorization by order of the court. Such an order may be obtained in the manner provided in this article.

2551. (a) In any case described in Section 2541 or Section 2552, the guardian or conservator, after authorization by order of the court, may borrow money upon a note or notes, either unsecured or to be secured by a security interest or other lien on the personal property of the estate or any part thereof or to be secured by a mortgage or deed of trust on the real property of the estate or any part thereof. The guardian or conservator shall apply the money to the purpose or purposes specified in the order.

(b) To obtain an order under this section, the guardian or conservator, the ward or conservatee, or any other interested person may file a petition with the court. The petition shall state the purpose for which the order is sought, the necessity for or advantage to accrue from the order, the amount of money proposed to be raised, the rate of interest to be paid, the length of time the note or notes are to run, and a general description of the property proposed to be mortgaged or subjected to a deed of trust or other lien. Notice of the hearing on

the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) The court shall hear the petition and any objection thereto and may require such additional proof of the fairness and feasibility of the transaction as the court determines is necessary. If the required showing is made, the court may make an order authorizing the transaction and may prescribe in the order the terms and conditions upon which the transaction shall be made, including but not limited to the following:

(1) Ordering that a lesser amount than that specified in the petition be borrowed

(2) Prescribing the maximum rate of interest and the period of the loan.

(3) Requiring that the interest and the whole or any part of the principal be paid from time to time out of the estate or any part thereof.

(4) Requiring that the personal property used as security or any buildings on real property to be mortgaged or subjected to the deed of trust be insured for the further security of the lender and that the premiums be paid out of the estate.

(d) The note or notes and the mortgage or deed of trust, if any, shall be signed by the guardian or conservator as such and shall create no personal liability against the person so signing.

(e) Jurisdiction of the court to administer the estate of the ward or conservatee shall be effectual to vest the court with jurisdiction to make the order for the note or notes and for the security interest, lien, mortgage, or deed of trust, and such jurisdiction shall conclusively inure to the benefit of the owner of the security interest or lien, mortgagee named in the mortgage, or the trustee and beneficiary named in the deed of trust, and their heirs and assigns No omission, error, or irregularity in the proceedings shall impair or invalidate the proceedings or the note or notes, security interest, lien, mortgage, or deed of trust given in pursuance thereof

(f) Upon any foreclosure or sale under a security interest, lien, mortgage, or deed of trust described in subdivision (a), if the proceeds of the sale of the encumbered property are insufficient to pay the note or notes, the security interest, lien, mortgage, or deed of trust, and the costs or expenses of sale, no judgment or claim for any deficiency shall be had or allowed against the ward or conservatee or the estate.

2552 (a) The guardian or conservator may give a security interest or other lien upon the personal property of the estate or any part thereof or a mortgage or deed of trust upon the real property of the estate or any part thereof, after authorization by order of the court as provided in Section 2551, for any of the following purposes.

(1) To pay, reduce, extend, or renew a security interest, lien, mortgage, or deed of trust already existing on property of the estate

(2) To erect, alter, or repair buildings or other structures upon, or otherwise to improve, the property proposed to be mortgaged or

subjected to a deed of trust, or some part thereof.

(b) If property of the estate consists of an undivided interest in real or personal property, or any other interest therein less than the entire ownership, and it appears to be to the advantage of the estate to borrow money to improve, utilize, operate, or preserve the property jointly with the owner or owners of the other interests therein, or to pay, reduce, extend, or renew a security interest, lien, mortgage, or deed of trust already existing on all of the property, the guardian or conservator, after authorization by order of the court as provided in Section 2551, may join with the owner or owners of such other interests in the borrowing of money and the execution of a joint and several note or notes and such security interest, lien, mortgage, or deed of trust as may be required to secure the payment of the note or notes. The note or notes may be for such sum as is required for the purpose

2553. (a) Except as provided in Section 2555, leases may be executed by the guardian or conservator with respect to the property of the estate only after authorization by order of the court.

(b) To obtain an order under this section, the guardian or conservator or any interested person may file a petition with the court. The petition shall state (1) a general description of the property proposed to be leased, (2) the term, rental, and general conditions of the proposed lease, and (3) the advantage to the estate to accrue from giving the lease. If the lease is proposed to be for a term longer than 10 years, the petition shall state additional facts showing the need for the longer lease and its advantage to the estate Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) The court shall hear the petition and any objection thereto and may require such additional proof of the fairness and feasibility of the transaction as the court determines is necessary. The court also shall entertain and consider any other offer made in good faith at the hearing to lease the same property on more favorable terms. If the court is satisfied that it will be to the advantage of the estate, the court shall make an order authorizing the guardian or conservator to make the lease to the person and on the terms stated in the order. The court shall not make an order authorizing the guardian or conservator to make the lease to any person other than the lessee named in the petition unless the offer made at the hearing is acceptable to the guardian or conservator.

(d) Jurisdiction of the court to administer the estate of the ward or conservatee shall be effectual to vest the court with jurisdiction to make the order for the lease, and such jurisdiction shall conclusively inure to the benefit of the lessee and the lessee's heirs and assigns No omission, error, or irregularity in the proceedings shall impair or invalidate the proceedings or the lease made in pursuance thereof

2554 (a) An order authorizing the execution of a lease shall set

forth the minimum rental or royalty and the period of the lease, which shall be for such time as the court may authorize.

(b) The order may authorize other terms and conditions, including, with respect to a lease for the purpose of production of minerals, oil, gas, or other hydrocarbon substances, any of the following:

(1) A provision for the payment of rental and royalty to a depositary.

(2) A provision for the appointment of a common agent to represent the interests of all the lessors.

(3) A provision for the payment of a compensatory royalty in lieu of rental and in lieu of drilling and producing operations on the land covered by the lease

(4) A provision empowering the lessee to enter into any agreement authorized by Section 3301 of the Public Resources Code with respect to the land covered by the lease.

(5) A provision for pooling or unitization by the lessee.

(c) If the lease covers additional property owned by other persons or an undivided or other interest of the ward or conservatee less than the entire ownership in the property, the lease may provide for division of rental and royalty in the proportion that the land or interest of each owner bears to the total area of the land or total interests covered by such lease.

(d) A lease for the purpose of production of minerals, oil, gas, or other hydrocarbon substances may be for a fixed period and any of the following.

(1) So long thereafter as minerals, oil, gas, or other hydrocarbon substances are produced in paying quantities from the property leased or mining or drilling operations are conducted thereon.

(2) If the lease provides for the payment of a compensatory royalty, so long thereafter as such compensatory royalty is paid.

(3) If the land covered by the lease is included in an agreement authorized by Section 3301 of the Public Resources Code, so long thereafter as oil, gas, or other hydrocarbon substances are produced in paying quantities from any of the lands included in any such agreement or drilling operations are conducted thereon.

2555. The guardian or conservator may lease real property without authorization of the court when (a) the rental does not exceed seven hundred fifty dollars ($750) a month and the term does not exceed two years, or (b) regardless of the amount of the rental, when the lease is from month to month.

2556 (a) If it is for the advantage, benefit, and best interests of the estate and those interested therein, the guardian or conservator, after authorization by order of the court, may do any of the following either with or without consideration.

(1) Dedicate or convey any real property of the estate or any interest therein to any public entity (including but not limited to the United States or any agency or instrumentality thereof) for any purpose

(2) Dedicate or convey an easement over any real property of the estate to any person for any purpose.

(3) Convey, release, or relinquish to any public entity any access rights to any street, highway, or freeway from any real property of the estate.

(4) Consent as a lienholder to a dedication, conveyance, release, or relinquishment under paragraph (1), (2), or (3) by the owner of property subject to the lien.

(b) To obtain an order under this section, the guardian or conservator or any other interested person shall file a petition with the court. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2557. (a) Whenever it is for the advantage, benefit, and best interests of the ward or conservatee and those legally entitled to support, maintenance, or education from the ward or conservatee, the guardian or conservator, after authorization by order of the court, may exchange any property of the estate for other property upon such terms and conditions as the court may prescribe. Such conditions may include the payment or receipt of part cash by the guardian or conservator.

(b) To obtain an order under this section, the guardian or conservator or any interested person may file a petition with the court. Except as provided in subdivision (c), notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) If the petition is for authorization to exchange stocks, bonds, or other securities as defined in Section 771 for different stocks, bonds, or other securities, the court, upon a showing of good cause, may order that the notice be dispensed with.

(d) After authorization by order of the court, the guardian or conservator may execute the conveyance or transfer to the person with whom the exchange is made to effectuate the exchange.

Article 9. Investments and Purchase of Property

2570. (a) The guardian or conservator, after authorization by order of the court, may invest the proceeds of sales and any other money of the estate as provided in the order.

(b) To obtain an order of the court authorizing a transaction under subdivision (a) of this section, the guardian or conservator, the ward or conservatee, or any other interested person may file a petition with the court.

(c) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1. The court may order that the notice be dispensed with

(d) The court shall hear the petition and any objection thereto and may require such additional proof of the fairness and feasibility

of the transaction as the court determines is necessary.

(e) If the required showing is made, the court may make an order authorizing the transaction and may prescribe in the order the terms and conditions upon which the transaction shall be made.

2571. When authorized by order of the court under Section 2570, the guardian or conservator may purchase:

(a) Real property in this state as a home for the ward or conservatee if such purchase is for the advantage, benefit, and best interest of the ward or conservatee.

(b) Real property as a home for those legally entitled to support and maintenance from the ward or conservatee if such purchase is for the advantage, benefit, and best interest of the ward or conservatee and of those legally entitled to support and maintenance from the ward or conservatee.

2572. An order authorizing the guardian or conservator to purchase real property may authorize the guardian or conservator to join with the spouse of the ward or conservatee or with any other person or persons in the purchase of the real property, or an interest, equity, or estate therein, in severalty, in common, in community, or in joint tenancy, for cash or upon a credit or for part cash and part credit. When the court authorizes the purchase of real property, the court may order the guardian or conservator to execute all necessary instruments and commitments to complete the transaction.

2573. An order authorizing investment in bonds issued by any state of the United States or of any city, county, city and county, political subdivision, public corporation, district, or special district of any state of the United States may authorize the guardian or conservator to select from among bonds issued by any such issuer, without specifying any particular issuer or issue of bonds, if the type of issuer is designated in general terms and the order specifies as to such bonds a minimum quality rating as shown in a recognized investment service, a minimum interest coupon rate, a minimum yield to maturity, and the date of maturity within a five-year range.

2574. (a) Subject to subdivision (b), the guardian or conservator, without authorization of the court, may invest funds of the estate pursuant to this section in:

(1) Direct obligations of the United States, or of this state, having a maturity at the time of acquisition of not more than five years.

(2) United States Treasury bonds redeemable at par value on the death of the holder for payment of federal estate taxes, regardless of maturity date

(3) Stocks, bonds, and other securities listed on an established stock or bond exchange in the United States which are purchased on such exchange.

(b) In making and retaining investments made under this section, the guardian or conservator shall conform to Section 2261 of the Civil Code and shall take into consideration the circumstances of the estate, indicated cash needs, and, if reasonably ascertainable, the date of the prospective termination of the guardianship or

conservatorship

(c) Nothing in this section limits the authority of the guardian or conservator to seek court authorization for any investment, or to make other investments with court authorization, as provided in this division.

Article 10 Substituted Judgment

2580. (a) The conservator or other interested person may file a petition under this article for an order of the court authorizing or requiring the conservator to take a proposed action for any one or more of the following purposes:

(1) Benefiting the conservatee or the estate

(2) Minimizing current or prospective taxes or expenses of administration of the conservatorship estate or of the estate upon the death of the conservatee.

(3) Providing gifts for such purposes, and to such charities, relatives (including the other spouse), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the conservatee

(b) The action proposed in the petition may include, but is not limited to, the following.

(1) Making gifts of principal or income, or both, of the estate, outright or in trust.

(2) Conveying or releasing the conservatee's contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety

(3) Exercising or releasing the conservatee's powers as donee of a power of appointment.

(4) Entering into contracts

(5) Creating for the benefit of the conservatee or others, revocable or irrevocable trusts of the property of the estate, which trusts may extend beyond the conservatee's disability or life.

(6) Exercising options of the conservatee to purchase or exchange securities or other property

(7) Exercising the rights of the conservatee to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any of the following:

(i) Life insurance policies, plans, or benefits

(ii) Annuity policies, plans, or benefits.

(iii) Mutual fund and other dividend investment plans

(iv) Retirement, profit sharing, and employee welfare plans and benefits

(8) Exercising the right of the conservatee to elect to take under or against a will.

(9) Exercising the right of the conservatee to renounce or disclaim any interest acquired by testate or intestate succession or by inter vivos transfer, including exercising the right of the conservatee

to surrender the right to revoke a revocable trust.

(10) Exercising the right of the conservatee to revoke a revocable trust.

(11) Making an election or an election and agreement referred to in Section 202.

2581. Notice of the hearing of the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) or Part 1 to all of the following (other than the petitioner or persons joining in the petition):

(a) The persons required to be given notice under Chapter 3 (commencing with Section 1460) of Part 1.

(b) The persons required to be named in a petition for the appointment of a conservator.

(c) So far as is known to the petitioner, beneficiaries under any document executed by the conservatee which may have testamentary effect unless the court for good cause dispenses with such notice.

(d) So far as is known to the petitioner, the persons who, if the conservatee were to die immediately, would be the conservatee's heirs under the laws of intestate succession unless the court for good cause dispenses with such notice.

(e) Such other persons as the court may order.

2582. The court may make an order authorizing or requiring the proposed action under this article only if the court determines all of the following:

(a) The conservatee either (1) is not opposed to the proposed action or (2) if opposed to the proposed action, lacks legal capacity for the proposed action.

(b) Either the proposed action will have no adverse effect on the estate or the estate remaining after the proposed action is taken will be adequate to provide for the needs of the conservatee and for the support of those legally entitled to support, maintenance, and education from the conservatee, taking into account the age, physical condition, standards of living, and all other relevant circumstances of the conservatee and those legally entitled to support, maintenance, and education from the conservatee.

2583. In determining whether to authorize or require a proposed action under this article, the court shall take into consideration all the relevant circumstances, including but not limited to:

(a) Whether the conservatee has legal capacity for the proposed transaction and, if not, the probability of the conservatee's recovery of legal capacity.

(b) The past donative declarations, practices, and conduct of the conservatee.

(c) The traits of the conservatee.

(d) The relationship and intimacy of the prospective donees with the conservatee, their standards of living, and the extent to which they would be natural objects of the conservatee's bounty by any objective test based on such relationship, intimacy, and standards of

living.

(e) The wishes of the conservatee.

(f) Any known estate plan of the conservatee (including, but not limited to, the conservatee's will, any trust of which the conservatee is the settlor or beneficiary, any power of appointment created by or exercisable by the conservatee, and any contract, transfer, or joint ownership arrangement with provisions for payment or transfer of benefits or interests at the conservatee's death to another or others which the conservatee may have originated).

(g) The manner in which the estate would devolve upon the conservatee's death, giving consideration to the age and the mental and physical condition of the conservatee, the prospective legatees, devisees, or heirs of the conservatee, and the prospective donees.

(h) The value, liquidity, and productiveness of the estate.

(i) The minimization of current or prospective income, estate, inheritance, or other taxes or expenses of administration.

(j) Changes of tax laws and other laws which would likely have motivated the conservatee to alter the conservatee's estate plan.

(k) The likelihood from all the circumstances that the conservatee as a reasonably prudent person would take the proposed action if the conservatee had the capacity to do so.

2584. After hearing, the court, in its discretion, may approve, modify and approve, or disapprove the proposed action and may authorize or direct the conservator to transfer or dispose of assets or take other action as provided in the court's order.

2585. Nothing in this article imposes any duty on the conservator to propose any action under this article, and the conservator is not liable for failure to propose any action under this article.

2586. (a) As used in this section, "estate plan of the conservatee" includes but is not limited to the conservatee's will, any trust of which the conservatee is the settlor or beneficiary, any power of appointment created by or exercisable by the conservatee, and any contract, transfer, or joint ownership arrangement with provisions for payment or transfer of benefits or interests at the conservatee's death to another or others which the conservatee may have originated.

(b) Notwithstanding Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code (lawyer-client privilege), the court, in its discretion, may order that any person having possession of any document constituting all or part of the estate plan of the conservatee shall deliver such document to the court for examination by the court, and by the attorneys for the persons who have appeared in the proceedings under this article, in connection with the petition filed under this article.

(c) Unless the court otherwise orders, no person who examines any document produced pursuant to an order under this section shall disclose the contents of the document to any other person; and, if such disclosure is made, the court may adjudge the person making the disclosure to be in contempt of court.

Article 11. Independent Exercise of Powers

2590. The court may, in its discretion, make an order granting the guardian or conservator any one or more or all of the powers specified in Section 2591 if the court determines that, under the circumstances of the particular guardianship or conservatorship, it would be to the advantage, benefit, and best interest of the estate to do so Subject only to such requirements, conditions, or limitations as are specifically and expressly provided, either directly or by reference, in the order granting the power or powers, the guardian or conservator may exercise the granted power or powers without notice, hearing, or court authorization, instructions, approval, or confirmation in the same manner as the ward or conservatee could do if possessed of legal capacity

2591 The powers referred to in Section 2590 are:

(a) The power to contract for the guardianship or conservatorship and to perform outstanding contracts and thereby bind the estate.

(b) The power to operate at the risk of the estate a business, farm, or enterprise constituting an asset of the estate.

(c) The power to grant and take options.

(d) The power to sell at public or private sale real or personal property of the estate.

(e) The power to create by grant or otherwise easements and servitudes.

(f) The power to borrow money and give security for the repayment thereof.

(g) The power to purchase real or personal property.

(h) The power to alter, improve, and repair or raze, replace, and rebuild property of the estate

(i) The power to let or lease property of the estate for any purpose (including exploration for and removal of gas, oil, and other minerals and natural resources) and for any period, including a term commencing at a future time.

(j) The power to lend money on adequate security.

(k) The power to exchange property of the estate.

(*l*) The power to sell property of the estate on credit if any unpaid portion of the selling price is adequately secured.

(m) The power to commence and maintain an action for partition.

(n) The power to exercise stock rights and stock options.

(o) The power to participate in and become subject to and to consent to the provisions of a voting trust and of a reorganization, consolidation, merger, dissolution, liquidation, or other modification or adjustment affecting estate property

(p) The power to pay, collect, compromise, arbitrate, or otherwise adjust claims, debts, or demands upon the guardianship or conservatorship.

(q) The power to employ attorneys, accountants, investment counsel, agents, depositaries, and employees and to pay the expense

2592 (a) The guardian or conservator may apply by petition for an order under Section 2590.

(b) The application for the order may be included in the petition for the appointment of the guardian or conservator In such case, the notice of hearing on the petition shall include a statement that the petition includes an application for the grant of one or more powers under this article and shall list the specific power or powers applied for.

(c) If the application for the order is made by petition filed after the filing of the petition for the appointment of the guardian or conservator, notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2593. (a) The court, on its own motion or on petition of any interested person, when it appears to be for the best interests of the ward or conservatee or the estate, may withdraw any or all of the powers previously granted pursuant to this article or may impose restrictions, conditions, and limitations on the exercise of such powers by the guardian or conservator.

(b) Notice of the hearing on a petition under this section shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

2594 (a) When a power or powers are granted pursuant to this article, the letters of guardianship or conservatorship shall state the power or powers so granted and the restrictions, conditions, or limitations, if any, prescribed in the order and shall refer to this article.

(b) When a power or powers are granted by a subsequent order, new letters shall be issued in the form described in subdivision (a).

(c) If the powers are withdrawn, or if the powers are restricted, conditioned, or limited by a subsequent order after they are granted, new letters shall be issued accordingly.

2595 (a) The grant of a power or powers pursuant to this article does not affect the right of the guardian or conservator to petition the court as provided in Section 2403 or to petition the court under other provisions of this code, as to a particular transaction or matter, in the same manner as if the power or powers had not been granted pursuant to this article.

(b) Where authority exists under other provisions of law, either general or specific, for the guardian or conservator to do any act or to enter into any transaction described in Section 2591, the guardian or conservator may proceed under such other provisions of law and is not required to obtain authority under this article.

Chapter 7 Inventory and Accounts

Article 1. Definitions and General Provisions

2600. As used in this chapter, unless the context otherwise

requires:

(a) "Conservator" means the conservator of the estate.

(b) "Guardian" means the guardian of the estate.

2601. (a) Unless otherwise ordered by the court, if the ward or conservatee is at any time during the continuance of the guardianship or conservatorship employed:

(1) The wages or salaries for such employment are not a part of the estate and the guardian or conservator is not accountable for such wages or salaries.

(2) The wages or salaries for such employment shall be paid to the ward or conservatee and are subject to his or her control to the same extent as if the guardianship or conservatorship did not exist.

(b) Any court order referred to in subdivision (a) is binding upon the employer only after notice of the order has been received by the employer.

2602. (a) If the guardian or conservator fails to file an inventory and appraisement or any account within the time allowed by law or by court order, upon request of the ward or conservatee, the spouse or any relative or friend of the ward or conservatee, or any interested person, the court shall order the guardian or conservator to file the inventory and appraisement or to file the account, as the case may be, within such time as the order prescribes or to show cause why the guardian or conservator should not be removed. The person who requested the order shall serve it upon the guardian or conservator in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure or in such manner as is ordered by the court.

(b) If the guardian or conservator fails to file the inventory and appraisement or to file the account as required by the order within the time prescribed in the order, unless good cause is shown for not doing so, the court, on its own motion or on petition, may remove the guardian or conservator, revoke the letters of guardianship or conservatorship, and enter judgment accordingly, and order the guardian or conservator to file an accounting and to surrender the estate to the person legally entitled thereto.

(c) The procedure provided in this section is optional and does not preclude the use of any other remedy or sanction when an inventory and appraisement or account is not timely filed.

Article 2. Inventory and Appraisement of Estate

2610. (a) Within 90 days after appointment, or within such further time as the court for reasonable cause upon ex parte petition of the guardian or conservator may allow, the guardian or conservator shall file with the clerk of the court an inventory and appraisement of the estate, made as of the date of the appointment of the guardian or conservator.

(b) The guardian or conservator shall take and subscribe to an oath that the inventory contains a true statement of all of the estate of the ward or conservatee of which the guardian or conservator has

possession or knowledge. The oath shall be endorsed upon or annexed to the inventory.

(c) The property described in the inventory shall be appraised in the manner provided for the inventory and appraisement of estates of decedents. The guardian or conservator may appraise the assets which an executor or administrator could appraise under Section 605.

(d) If a conservatorship is initiated pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) and no sale of the estate will occur:

(1) The inventory and appraisement required by subdivision (a) shall be filed within 90 days after appointment of the conservator.

(2) The property described in the inventory may be appraised by the conservator and need not be appraised by an inheritance tax referee.

2611. If the ward or conservatee is or has been during the guardianship or conservatorship a patient in a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the guardian or conservator shall mail a copy of the inventory and appraisement filed under Section 2610 to the director of the appropriate department at the director's office in Sacramento not later than 15 days after the inventory and appraisement is filed with the court. Compliance with this section is not required if an unrevoked certificate described in subdivision (c) of Section 1461 is on file with the court with respect to the ward or conservatee

2612. If a timely request is made, the clerk of court shall mail a copy of the inventory and appraisement filed under Section 2610 to the county assessor.

2613. Whenever any property of the ward or conservatee is discovered that was not included in the inventory, or whenever any other property is inherited or acquired by the ward or conservatee (other than by the actions of the guardian or conservator in the investment and management of the estate), the guardian or conservator shall file a supplemental inventory and appraisement for the property so discovered, inherited, or acquired, and like proceedings shall be followed with respect thereto as in the case of an original inventory.

2614. (a) Within 30 days after the inventory and appraisement is filed, the guardian or conservator or any creditor or other interested person may file written objections to any or all appraisals. The clerk shall set the objections for hearing not less than 15 days after their filing

(b) At least 10 days before the hearing, the party filing the written objections shall mail a notice of the time and place of the hearing and a copy of the objections to all of the following (other than the person filing the objections)

(1) The guardian or conservator

(2) The spouse and the relatives of the ward or conservatee within

the second degree

(3) The inheritance tax referee.

(c) The court shall determine the objections and may fix the true value of any asset to which objection has been filed. For the purpose of this subdivision, the court may cause an independent appraisal or appraisals to be made by at least one additional appraiser at the expense of the estate or, if the objecting party is not the guardian or conservator and the objection is rejected by the court, the court may assess the cost of any such additional appraisal or appraisals against the objecting party.

2615. If a guardian or conservator fails to file any inventory required by this article within the time prescribed by law or by court order, the guardian or conservator is liable for damages for any injury to the estate, or to any interested person, resulting from the failure timely to file the inventory. Any damages awarded pursuant to this section are a charge upon the bond of the guardian or conservator. If the bond is insufficient, or if there is no bond, the damages are a charge against the personal assets of the guardian or conservator.

2616. (a) A petition may be filed under this section by any one or more of the following:

(1) The guardian or conservator.

(2) The ward or conservatee.

(3) A creditor or other interested person, including persons having only an expectancy or prospective interest in the estate.

(b) The petition may allege any one or more of the following:

(1) A named person is suspected of having embezzled, concealed, smuggled, or falsely or fraudulently obtained or wrongfully disposed of any property of the ward or conservatee

(2) A named person has in such person's possession, or has knowledge of, any instrument in writing belonging to the ward or conservatee.

(3) A named person asserts a claim against the ward or conservatee or the estate.

(4) The estate asserts a claim against a named person.

(c) Upon the filing of a petition under this section, the court may cite the named person to appear before the court, and the court and the petitioner may examine the named person under oath upon the matters recited in the petition. If the named person is not in the county where letters issued, the examination shall be made under this section but otherwise the procedure and the rights and duties of the parties shall be governed by the provisions of Sections 613, 614, and 615.

Article 3 Accounts

2620. (a) At the expiration of one year from the time of appointment and thereafter not less frequently than biennially, unless otherwise ordered by the court, the guardian or conservator shall present the account of the guardian or conservator to the court

for settlement and allowance.

(b) The account shall state the period covered by the account and contain a summary showing all of the following:

(1) If the first account, the amount of appraisement; if a subsequent account, the amount chargeable from the prior account.

(2) The amount of any supplemental appraisement filed within the period covered by the account.

(3) The amount of cash receipts, excluding amounts reported under paragraph (4)

(4) The gains on sales or other increases in assets, if any.

(5) The amount of cash disbursements, excluding amounts reported under paragraph (6).

(6) The losses on sales or other decreases in assets, if any.

(7) The amount of property on hand

(c) The account shall contain itemized schedules showing receipts, disbursements, transactions, and balance of property on hand

(d) The petition for approval of the account or a report accompanying the petition shall contain all of the following:

(1) Descriptions of all sales, purchases, changes in the form of assets, or other transactions occurring during the period of the account that are not otherwise readily understandable from the schedules.

(2) Explanations of any unusual items appearing in the account.

(3) Any additional information required by the court.

(e) The petition requesting approval of the account may include additional requests for authorization, instruction, approval, or confirmation authorized by this division, including, but not limited to, a request for any order authorized under Chapter 8 (commencing with Section 2640).

(f) When an account is rendered by or on behalf of two or more joint guardians or conservators, the court, in its discretion, may settle and allow the account upon the verification of any of them.

2621. Notice of the hearing on the account of the guardian or conservator shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1. If notice is required to be given to the Director of Mental Health or the Director of Developmental Services under Section 1461, the account shall not be settled or allowed unless notice has been given as provided in Section 1461.

2622 The ward or conservatee, the spouse or any relative or friend of the ward or conservatee, or any creditor or other interested person may file written objections to the account of the guardian or conservator, stating the items of the account to which objection is made and the basis for the objection.

2623 The guardian or conservator shall be allowed all of the following:

(a) The amount of the reasonable expenses incurred in the exercise of the powers and the performance of the duties of the

guardian or conservator (including, but not limited to, the cost of any surety bond furnished, reasonable attorney's fees, and such compensation for services rendered by the guardian or conservator of the person as the court determines is just and reasonable).

(b) Such compensation for services rendered by the guardian or conservator as the court determines is just and reasonable.

(c) All reasonable disbursements made before appointment as guardian or conservator.

(d) In the case of termination other than by the death of the ward or conservatee, all reasonable disbursements made after the termination of the guardianship or conservatorship but prior to the discharge of the guardian or conservator by the court.

(e) In the case of termination by the death of the ward or conservatee, all reasonable expenses incurred prior to the discharge of the guardian or conservator by the court for the custody and conservation of the estate and its delivery to the executor or administrator of the estate of the deceased ward or conservatee or in making other disposition of the estate as provided for by law.

2624. Upon each accounting, the guardian or conservator shall show that, during the period covered by the account, all cash has been kept invested in interest bearing accounts or investments authorized by law except for such amounts of cash as are reasonably necessary for the orderly administration of the estate.

2625. Any sale or purchase of property or other transaction not previously authorized, approved, or confirmed by the court is subject to review by the court upon the next succeeding accounting of the guardian or conservator occurring after the transaction. Upon such accounting and review, the court may hold the guardian or conservator liable for any violation of duties in connection with the sale, purchase, or other transaction. Nothing in this section shall be construed to affect the validity of any sale or purchase or other transaction.

2626. If it appears upon the settlement of any account that the estate has been entirely exhausted through expenditures or disbursements which are approved by the court, the court, upon settlement of the account, shall order the proceeding terminated and the guardian or conservator forthwith discharged unless the court determines that there is reason to continue the proceeding.

2627. (a) After a ward has reached majority, the ward may settle accounts with the guardian and give the guardian a release which is valid if obtained fairly and without undue influence.

(b) Except as otherwise provided by this code, a guardian is not entitled to a discharge until one year after the ward has attained majority.

2628. (a) As used in this section, "public benefit payments" means payments received or to be received under either or both of the following:

(1) Part 3 (commencing with Section 11000) of, or Part 5 (commencing with Section 17000) of, Division 9 of the Welfare and

Institutions Code.

(2) Subchapter II (commencing with Section 401) of, or Part A of Subchapter XVI (commencing with Section 1382) of, Chapter 7, Title 42, of the United States Code.

(b) In lieu of accounting as otherwise required by this article, the guardian or conservator may follow the procedure provided by this section if all of the following conditions are satisfied:

(1) The estate at the beginning and end of the accounting period consisted of property of a total net value of less than two thousand dollars ($2,000)

(2) The income of the estate for each month of the accounting period, exclusive of public benefit payments, was less than one hundred fifty dollars ($150).

(3) All income of the estate, if not retained, was spent for the benefit of the ward or conservatee.

(c) The guardian or conservator may file with the court at the time the account is otherwise required to be presented an affidavit stating the amount of public benefit payments received by or on behalf of the ward or conservatee, and the other income of the estate, for each month covered by the account and stating that all the conditions prescribed in subdivision (b) are satisfied.

(d) If an affidavit is filed under subdivision (c), the ward or conservatee or any interested person may petition the court for an order requiring the guardian or conservator to present an account as otherwise required by this article or the court on its own motion may make such an order. An order under this subdivision may be made ex parte or on such notice of hearing as the court in its discretion requires.

Article 4. Accounts on Termination of Relationship

2630. The termination of the relationship of guardian and ward or conservator and conservatee by the death of either, by the ward attaining majority, by the determination of the court that the guardianship or conservatorship is no longer necessary, by the removal or resignation of the guardian or conservator, or for any other reason, does not cause the court to lose jurisdiction of the proceeding for the purpose of settling the accounts of the guardian or conservator or for any other purpose incident to the enforcement of the judgments and orders of the court upon such accounts or upon the termination of the relationship.

2631. (a) Upon the death of the ward or conservatee, the guardian or conservator may contract for and pay a reasonable sum for the expenses of the last illness and the funeral of the deceased ward or conservatee, or may pay the unpaid expenses of such last illness and funeral, in full or in part, to the extent reasonable, from any assets of the deceased ward or conservatee, other than real property or any interest therein, which are under the control of the guardian or conservator.

(b) When a claim for such expenses is presented to the guardian or conservator, the guardian or conservator shall endorse thereon an allowance or rejection, with the date thereof. If the claim is allowed, it shall be presented to the court and the court shall in like manner endorse thereon an allowance or rejection. If the claim is approved by the court, the claim shall be filed with the clerk within 30 days thereafter.

(c) After payment of such expenses, the guardian or conservator may transfer any remaining assets in accordance with and subject to the provisions of Section 630. The value of the property of the deceased ward or conservatee, for the purpose of ascertaining the right to transfer under Section 630, shall be determined after the deduction of the expenses so paid

2632 (a) If the guardian or conservator dies or has a conservator of the estate appointed, the account may be presented by:

(1) The executor or administrator of the deceased guardian or conservator.

(2) The conservator of the estate appointed for the guardian or conservator

(b) Upon petition of the successor of the guardian or conservator, the court shall compel the executor or administrator of the deceased guardian or conservator or the conservator of the estate appointed for the guardian or conservator to render the account and shall settle the account as in other cases.

(c) If the guardian or conservator dies and there is no executor or administrator, or if the guardian or conservator becomes incapable of rendering an account and has no conservator of the estate, or if the guardian or conservator absconds, the court may compel the attorney for the guardian or conservator or the attorney of record in the guardianship or conservatorship proceeding to render an account of the guardianship or conservatorship to the extent that information or records are available to the attorney. The account of the attorney need not be verified. A fee shall be allowed to the attorney by the court for this extraordinary service.

2633 Subject to Section 2630, where the guardianship or conservatorship terminates before the inventory of the estate has been filed, the court, in its discretion and upon such notice as the court may require, may make an order that the guardian or conservator need not file the inventory and appraisement and that the guardian or conservator shall file an account covering only those assets of the estate of which the guardian or conservator has possession or control.

CHAPTER 8 COMPENSATION OF GUARDIAN, CONSERVATOR, AND ATTORNEY

2640. (a) At any time after the filing of the inventory and appraisement, but not before the expiration of 90 days from the issuance of letters, the guardian or conservator of the estate may

petition the court for an order fixing and allowing compensation to any one or more of the following:

(1) The guardian or conservator of the estate for services rendered in that capacity to that time.

(2) The guardian or conservator of the person for services rendered in that capacity to that time.

(3) The attorney for services rendered to that time by the attorney to the guardian or conservator of the person or estate or both.

(b) Notice of the hearing shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) Upon the hearing, the court shall make an order allowing (1) such compensation requested in the petition as the court determines is just and reasonable to the guardian or conservator of the estate for services rendered in that capacity or to the guardian or conservator of the person for services rendered in that capacity, or to both, and (2) such compensation requested in the petition as the court determines is reasonable to the attorney for services rendered to the guardian or conservator of the person or estate or both. The compensation so allowed shall thereupon be charged to the estate.

2641. (a) At any time permitted by Section 2640 and upon the notice therein prescribed, the guardian or conservator of the person may petition the court for an order fixing and allowing compensation for services rendered to that time in such capacity.

(b) Upon the hearing, the court shall make an order allowing such compensation as the court determines just and reasonable to the guardian or conservator of the person for services rendered. The compensation allowed shall thereupon be charged against the estate.

2642. (a) At any time permitted by Section 2640 and upon the notice therein prescribed, an attorney who has rendered legal services to the guardian or conservator of the person or estate or both, including services rendered under Section 2632, may petition the court for an order fixing and allowing compensation for such services rendered to that time.

(b) Upon the hearing, the court shall make an order allowing such compensation as the court determines reasonable to the attorney for services rendered to the guardian or conservator. The compensation so allowed shall thereupon be charged against the estate.

2643. (a) On petition by the guardian or conservator of the person or estate or both, the court may by order authorize periodic payments on account to any one or more of the following persons for the services rendered by such person during the period covered by each payment:

(1) The guardian of the person.

(2) The guardian of the estate.

(3) The conservator of the person.

(4) The conservator of the estate.

(5) The attorney for the guardian or conservator of the person or

estate or both.

(b) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(c) The petition shall describe the services to be rendered on a periodic basis and the reason why authority to make periodic payments is requested. In fixing the amount of the periodic payment, the court shall take into account the services to be rendered on a periodic basis and the reasonable value of such services. The guardian or conservator of the estate may make the periodic payments authorized by the order only if the services described in the petition are actually rendered. The payments made pursuant to the order are subject to review by the court upon the next succeeding accounting of the guardian or conservator of the estate to determine that the services were actually rendered and that the amount paid on account was not unreasonable, and the court shall make an appropriate order if the court determines that the amount paid on account was either excessive or inadequate in view of the services actually rendered.

2644. (a) When it is to the advantage, benefit, and best interest of the ward or conservatee or the estate, the guardian or conservator of the estate may contract with an attorney for a contingent fee for the attorney's services in representing the ward or conservatee or the estate in connection with a matter that is of a type that is customarily the subject of a contingent fee contract, but such a contract is valid only if (1) the contract is made pursuant to an order of the court authorizing the guardian or conservator to execute the contract or (2) the contract is approved by order of the court.

(b) To obtain an order under this section, the guardian or conservator shall file a petition with the court showing the advantage to the ward or conservatee or the estate of the contingent fee contract. A copy of the contingent fee contract shall be attached to the petition.

(c) Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(d) As used in this section, "court" includes either of the following:

(1) The court in which the guardianship or conservatorship proceeding is pending.

(2) Where the contract is in connection with a matter in litigation, the court in which the litigation is pending.

CHAPTER 9. REMOVAL OR RESIGNATION

Article 1. Removal of Guardian or Conservator

2650. A guardian or conservator may be removed for any of the following causes.

(a) Failure to use ordinary care and diligence in the management of the estate.

(b) Failure to file an inventory or to render an account within the time allowed by law or by court order.

(c) Continued failure to perform duties or incapacity to perform duties suitably.

(d) Conviction of a felony, whether before or after appointment as guardian or conservator.

(e) Gross immorality.

(f) Having such an interest adverse to the faithful performance of duties that there is an unreasonable risk that the guardian or conservator will fail faithfully to perform duties.

(g) In the case of a guardian of the person or a conservator of the person, acting in violation of any provision of Section 2356.

(h) In the case of a guardian of the estate or a conservator of the estate, insolvency or bankruptcy of the guardian or conservator.

(i) In any other case in which the court in its discretion determines that removal is in the best interests of the ward or conservatee; but, in considering the best interests of the ward, if the guardian was nominated under Section 1500 or 1501, the court shall take that fact into consideration.

2651. The ward or conservatee, the spouse or any relative or friend of the ward or conservatee, or any interested person may apply by petition to the court to have the guardian or conservator removed. The petition shall state facts showing cause for removal.

2652. (a) At least 15 days before the hearing, a copy of the petition and a notice of the time and place of hearing shall be mailed to the following persons (other than the petitioner):

(1) In the case of a guardianship, to the persons specified in Section 1511.

(2) In the case of a conservatorship, to the conservatee and to the persons specified in Section 1822.

(b) At least 15 days before the hearing, a copy of the petition and a notice of the time and place of hearing shall be served on the guardian or conservator in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure or in such manner as the court may order. If the guardian or conservator cannot with reasonable diligence be so served, the court may dispense with service.

2653. (a) The guardian or conservator, the ward or conservatee, the spouse or any relative or friend of the ward or conservatee, and any interested person, may appear at the hearing and support or oppose the petition

(b) If the court determines that cause for removal of the guardian or conservator exists, the court may remove the guardian or conservator, revoke the letters of guardianship or conservatorship, and enter judgment accordingly and, in the case of a guardianship or conservatorship of the estate, order the guardian or conservator to file an accounting and to surrender the estate to the person legally entitled thereto

2654. Whenever it appears that the ward or conservatee or the estate may suffer loss or injury during the time required for notice and hearing under this article, the court, on its own motion or on petition, may do either or both of the following:

(a) Suspend the powers of the guardian or conservator pending notice and hearing to such extent as the court deems necessary.

(b) Compel the guardian or conservator to surrender the estate to a custodian designated by the court.

Article 2. Resignation of Guardian or Conservator

2660. A guardian or conservator may at any time file with the court a petition tendering the resignation of the guardian or conservator. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1. The court shall allow such resignation when it appears proper, to take effect at such time as the court shall fix, and may make any order as may be necessary to deal with the guardianship or conservatorship during the period prior to the appointment of a new guardian or conservator and the settlement of the accounts of the resigning guardian or conservator.

Chapter 10. Requests for Special Notice

2700. (a) At any time after the issuance of letters of guardianship or conservatorship, the ward if over 14 years of age or the conservatee, the spouse or any relative or creditor of the ward or conservatee, or any other interested person, in person or by attorney, may file with the clerk of the court a written request for special notice of the filing or commencing of any one or more or all of the following:

(1) Petitions to direct, authorize, approve, or confirm the sale, lease, encumbrance, conveyance, or exchange of property.

(2) Petitions for transfer of the proceeding to another county.

(3) Inventory and appraisement of the estate, including any supplemental inventory and appraisement.

(4) Accounts of the guardian or conservator.

(5) Petitions for the authorization to commence an action for the partition of property.

(6) Petitions for allowances of any nature payable from the estate of the ward or conservatee.

(7) Petitions for the investment of funds of the estate or for the purchase of real property.

(8) Petitions for the resignation, removal, suspension, or discharge of the guardian or conservator.

(9) Proceedings for the final termination of the guardianship or conservatorship proceeding.

(10) Petitions to direct or allow payment of a debt or claim or to fix, direct, authorize, or allow payment of an attorney's fee.

(11) Petitions to fix, direct, authorize, or allow payment of the compensation or expenses of a guardian or conservator.

(12) Petitions to direct, authorize, approve, or modify payments for the support, maintenance, or education of the ward or conservatee or a person legally entitled to support, maintenance, or education from the ward or conservatee

(13) Petitions filed pursuant to Section 2423 (payment of surplus income to relatives of conservatee) or Article 10 (commencing with Section 2580) of Chapter 6 (substituted judgment).

(14) Petitions filed pursuant to Section 2359 or Section 2403 (authorization and instruction or approval and confirmation by court)

(15) Petitions filed pursuant to Article 11 (commencing with Section 2590) of Chapter 6 (independent exercise of powers)

(16) Petitions filed under Section 2520 (conveyance or transfer of property claimed to belong to ward or conservatee or other person).

(17) Petitions filed pursuant to Article 5 (commencing with Section 2500) of Chapter 6 (compromise of claims and actions or extension, renewal, or modification of obligations)

(18) Petitions to fix the residence of the ward or conservatee at a place not within this state.

(19) Petitions to remove property to another jurisdiction

(20) Petitions filed pursuant to Chapter 4 (commencing with Section 1870) of Part 3 (legal capacity of conservatee).

(b) The request for special notice shall be so entitled and shall set forth the name of the person and the address to which notices shall be sent If the request is for all of the matters referred to in subdivision (a), the request may refer generally to the provisions of this section If the request is for less than all of the matters set forth in subdivision (a), the request shall state specifically each of the matters of which special notice is requested

(c) A copy of the request shall be served on the guardian or conservator or on the attorney for the guardian or conservator

(d) The original of the request when filed with the clerk shall be accompanied by a written admission or proof of service

2701. (a) A request for special notice may be modified or withdrawn in the same manner as provided for the making of the initial request and is deemed to be withdrawn at a date three years from the date it was served under subdivision (c) of Section 2700

(b) A new request for special notice may be served and filed at any time as provided in the case of an initial request

2702 In any case to which a request for special notice applies, the party filing the petition, report, or account, or commencing the proceeding, shall give written notice of the filing or commencement, together with the time and place set for the hearing thereon, by mailing the notice to the person named in the request at the address set forth in the request, or by causing the notice to be personally delivered to such person, at least 15 days before the time set for the hearing or within such shorter time as the court may order In the

case of an inventory and appraisement of the estate, a written notice of the filing of the inventory and appraisement shall be so mailed or personally delivered not later than 15 days after the inventory and appraisement is filed with the court.

2703. (a) Proof of mailing or of personal delivery of the notice required by Section 2702 shall be made at or before the hearing.

(b) If it appears to the satisfaction of the court that notice has been regularly given or that the party entitled to notice has waived it, the court shall so find in its order, and such order when it becomes final is conclusive upon all persons

CHAPTER 11. APPEALS

2750. An appeal may be taken from the making of, or the refusal to make, a judgment, order, or decree doing any of the following:

(a) Granting or revoking letters of guardianship or conservatorship except letters of temporary guardianship or temporary conservatorship.

(b) Directing, authorizing, approving, or confirming the sale, lease, encumbrance, conveyance, or exchange of property.

(c) Adjudicating the merits of any claim under Article 5 (commencing with Section 2500) (compromise of claim or action or extension, renewal, or modification of obligation) or Article 6 (commencing with Section 2520) (conveyance or transfer of property claimed to belong to ward or conservatee or other person) of Chapter 6

(d) Settling an account of a guardian or conservator.

(e) Authorizing and instructing a guardian or conservator or approving and confirming acts of a guardian or conservator.

(f) Granting permission to the guardian or conservator to fix the residence of the ward or conservatee at a place not within this state.

(g) Directing or allowing payment of a debt or claim or fixing, directing, authorizing, or allowing payment of an attorney's fee.

(h) Fixing, directing, authorizing, or allowing payment of the compensation or expenses of a guardian or conservator.

(i) Directing, authorizing, approving, or modifying payments for the support, maintenance, or education of the ward or conservatee or a person legally entitled to support, maintenance, or education from the ward or conservatee.

(j) Granting or denying a petition under Section 2423 (payment of surplus income to relatives of conservatee) or under Article 10 (commencing with Section 2580) of Chapter 6 (substituted judgment).

(k) Transferring the assets of the guardianship or conservatorship estate to a guardian, conservator, committee, or comparable fiduciary in another jurisdiction.

(*l*) Affecting the legal capacity of the conservatee pursuant to Chapter 4 (commencing with Section 1870) of Part 3

(m) Allowing or denying a petition of the guardian or conservator

to resign.

(n) Removing or discharging the guardian or conservator.

(o) Discharging a surety on the bond of a guardian or conservator.

2751. (a) Except as provided in subdivisions (b) and (c), an appeal pursuant to Section 2750 stays the operation and effect of the judgment, order, or decree.

(b) Notwithstanding that an appeal is taken from the judgment, order, or decree, for the purpose of preventing injury or loss to person or property, the trial court may direct the exercise of the powers of the guardian or conservator, or may appoint a temporary guardian or conservator of the person or estate, or both, to exercise the powers, from time to time, as though no appeal were pending. All acts of the guardian or conservator, or temporary guardian or temporary conservator, pursuant to the directions of the court made under this subdivision are valid, irrespective of the result of the appeal.

(c) In proceedings for guardianship of the person, the provisions of Section 917.7 of the Code of Civil Procedure apply.

2752. If an order appointing a guardian or conservator is reversed on appeal for error, all lawful acts of the guardian or conservator performed after qualification and prior to the reversal are as valid as though the order were affirmed.

CHAPTER 12. TRANSFER OF ASSETS OUT OF STATE

2800. As used in this chapter, "foreign guardian or conservator" means a guardian, conservator, committee, or comparable fiduciary in another jurisdiction.

2801. Subject to the limitations and requirements of this chapter, the court in which the guardianship of the estate or conservatorship of the estate is pending may order the transfer of some or all of the assets of the estate to a foreign guardian or conservator in another jurisdiction outside of California where the ward or conservatee resides at the time the petition for the order authorizing the transfer is filed.

2802. A petition for an order authorizing a transfer may be filed by any of the following:

(a) The guardian of the estate or the conservator of the estate.

(b) The ward or conservatee.

(c) A foreign guardian or conservator.

2803. The petition shall set forth all of the following:

(a) The name and address of·

(1) The foreign guardian or conservator, who may but need not be the guardian or conservator appointed in this state.

(2) The ward or conservatee.

(3) The guardian or conservator, so far as is known to the petitioner

(b) The names, ages, and addresses, so far as they are known to the petitioner, of the spouse and of relatives of the ward or

conservatee within the second degree.

(c) A brief description of the character, condition, value, and location of the property comprising the assets sought to be transferred.

(d) A statement whether the foreign guardian or conservator has agreed to accept the transfer of the assets. If the foreign guardian or conservator has so agreed, the acceptance shall be attached as an exhibit to the petition or otherwise filed with the court.

(e) A statement of the manner in which and by whom the foreign guardian or conservator was appointed.

(f) A general statement of the qualifications of the foreign guardian or conservator.

(g) The amount of bond, if any, of the foreign guardian or conservator.

(h) A general statement of the nature and value of the assets of the ward or conservatee already under the management or control of the foreign guardian or conservator.

(i) The name of the court having jurisdiction of such foreign guardian or conservator or of the accounts of such foreign guardian or conservator or, if none, the court in which a proceeding may be had with respect to the guardianship or conservatorship if the assets are transferred.

(j) Whether there is any pending civil action in this state against the guardian or conservator, the ward or conservatee, or the estate.

(k) A statement of the reasons for the transfer.

2804. At least 30 days before the hearing, the petitioner shall mail a notice of the time and place of the hearing and a copy of the petition to each person (other than the petitioner) required to be listed in the petition at the address stated in the petition.

2805. Any of the following may appear and file written objections to the petition:

(a) Any person required to be listed in the petition.

(b) Any creditor of the ward or conservatee or of the estate.

(c) The spouse or any relative or friend of the ward or conservatee.

(d) Any other interested person.

2806. The court may grant the petition and order the guardian or conservator to transfer some or all of the assets of the estate to the foreign guardian or conservator if the court determines all of the following.

(a) The transfer will promote the best interests of the ward or conservatee and the estate.

(b) The substantial rights of creditors or claimants in this state will not be materially impaired by the transfer.

(c) The foreign guardian or conservator is qualified, willing, and able to administer the assets to be transferred.

2807 If a transfer is ordered, the court may direct the manner of transfer and impose such terms and conditions as may be just.

2808 (a) If the court's order provides for the transfer of all of the

assets of the estate to the foreign guardian or conservator, the court, upon settlement of the final account, shall order the guardianship of the estate or the conservatorship of the estate terminated upon the filing with the clerk of the court of a receipt for such assets executed by the foreign guardian or conservator.

(b) Unless notice is waived, a copy of the final account of the guardian or conservator and of the petition for discharge, together with a notice of the hearing thereon, shall be mailed at least 30 days before the date of the hearing to all persons required to be listed in the petition for transfer, including the foreign guardian or conservator

PART 5. UNIFORM VETERANS' GUARDIANSHIP ACT

2900. This part may be cited as the "Uniform Veterans' Guardianship Act."

2901. As used in this part:

(a) "Person" means an individual, a partnership, a corporation, or an association.

(b) "Veterans Administration" means the Veterans Administration, its predecessors, or successors

(c) "Income" means moneys received from the Veterans Administration and revenue or profit from any property wholly or partially acquired therewith.

(d) "Estate" means income on hand and assets acquired partially or wholly with "income."

(e) "Benefits" means all moneys paid or payable by the United States through the Veterans Administration

(f) "Administrator" means the Administrator of Veterans Affairs of the United States or successor

(g) "Ward" means a beneficiary of the Veterans Administration.

(h) "Guardian" means any fiduciary for the estate of a ward

2902 (a) Whenever, pursuant to any law of the United States or regulation of the Veterans Administration, it is necessary, prior to payment of benefits that a guardian be appointed, the appointment may be made in the manner provided in this part.

(b) If the ward is 18 years of age or older, for the purposes of this part, the ward shall be called a conservatee and the guardian shall be called a conservator

2903 (a) A petition for the appointment of a guardian may be filed in any court of competent jurisdiction by any relative or friend of the ward or by any person who is authorized by law to file such a petition If there is no person so authorized or if the person so authorized refuses or fails to file such a petition within 30 days after mailing of notice by the Veterans Administration to the last known address of such person, if any, indicating the necessity for the same, a petition for appointment may be filed by any resident of this state

(b) The petition for appointment shall set forth the name, age, place of residence of the ward, the name and place of residence of

the nearest relative, if known, and the fact that the ward is entitled to receive benefits payable by or through the Veterans Administration and shall set forth the amount of moneys then due and the amount of probable future payments.

(c) The petition shall also set forth the name and address of the person or institution, if any, having actual custody of the ward and the name, age, relationship, if any, occupation, and address of the person proposed for appointment as guardian. Notwithstanding any law as to priority of persons entitled to appointment, or the nomination in the petition, the court may appoint some other person as guardian, if the court determines it is for the best interest of the ward.

(d) In the case of a mentally incompetent ward, the petition shall show that such ward has been rated incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration.

2904. Where a petition is filed for the appointment of a guardian for a minor, a certificate of the administrator or the administrator's authorized representative, setting forth the age of the minor as shown by the records of the Veterans Administration and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the Veterans Administration, is prima facie evidence of the necessity for the appointment.

2905. Where a petition is filed for the appointment of a guardian for a mentally incompetent ward, a certificate of the administrator or the administrator's authorized representative, setting forth that the ward has been rated incompetent by the Veterans Administration on examination in accordance with the laws and regulations governing the Veterans Administration and that the appointment of a guardian is a condition precedent to the payment of any moneys due the ward by the Veterans Administration, is prima facie evidence of the necessity for the appointment

2906. Upon the filing of a petition for the appointment of a guardian under this part, notice of the time and place of hearing on the petition shall be given as provided in Section 1511. A signed duplicate or certified copy of the petition shall be sent, and notice of the hearing on the petition shall be given, to the proper office of the Veterans Administration in the same manner as is provided in the case of the hearing on a guardian's account under Section 2908.

2907. (a) Before making an appointment under the provisions of this part, the court shall be satisfied that the guardian whose appointment is sought is a fit and proper person to be appointed.

(b) Upon the appointment being made, the guardian shall execute and file the bond required by law. Where a bond is tendered by a guardian with personal sureties, such sureties shall file with the court a certificate under oath which shall describe the property owned, both real and personal, and that they are each worth the sum named in the bond as the penalty thereof over and above all their

debts and liabilities and exclusive of property exempt from execution.

2908 (a) Every guardian who has received or shall receive on account of the ward any moneys or other thing of value from the Veterans Administration shall file with the court annually, or at such other intervals as are directed by the court, in addition to such other accounts as may be required by the court, a full, true, and accurate account of all moneys or other things of value so received by the guardian, all earnings, interest or profits derived therefrom and all property acquired therewith and of all disbursements therefrom, and showing the balance thereof in the hands of the guardian at the date of the account and how invested.

(b) At the time of filing in the court any account, a true copy thereof shall be sent by the guardian to the office of the Veterans Administration having jurisdiction over the area in which the court is located. The clerk shall fix a time and place for the hearing on the account, not less than 15 days nor more than 30 days from the date the account is filed, unless a different available date be stipulated in writing Not less than 15 days prior to the date fixed for the hearing, written notice of the time and place of hearing shall be mailed to the office of the Veterans Administration having jurisdiction over the area in which the court is located and to the guardian and to any others entitled to notice under subdivision (b) of Section 1460 or who have requested special notice pursuant to Chapter 10 (commencing with Section 2700) of Part 4.

(c) If the guardian is accountable for property derived from sources other than the Veterans Administration, the guardian is accountable as is or may be required under the applicable law of this state pertaining to the property of wards or conservatees who are not beneficiaries of the Veterans Administration, and as to such other property is entitled to the compensation provided by such law. The account for other property may be combined with the account filed in accordance with this section.

2909. If a guardian fails to file with the court any account as required by this part, or by an order of the court, when any account is due or within 30 days after citation issues as provided by law, or fails to furnish the Veterans Administration a true copy of any account as required by this part, such failure shall in the discretion of the court be ground for the removal of the guardian

2910 Compensation payable to guardians shall not exceed 5 percent of the income of the ward during the year, except that, in any case in which 5 percent of the money received during such period is less than twenty-five dollars ($25), the court may in its discretion, and without a showing of extraordinary services by the guardian, allow a reasonable compensation, not to exceed twenty-five dollars ($25) In the event of extraordinary services rendered by such guardian, the court may, upon petition and after hearing thereon, authorize additional compensation therefor payable from the estate of the ward A signed duplicate or certified

copy of the petition shall be sent, and notice of the hearing on the petition shall be given, to the proper office of the Veterans Administration in the same manner as is provided in the case of the hearing on a guardian's account under Section 2908. No compensation shall be allowed on the corpus of an estate received from a preceding guardian. The guardian may be allowed from the estate of the ward reasonable premiums paid by the guardian to any corporate surety upon the guardian's bond.

2911. (a) Every guardian shall invest the surplus funds of the ward's estate in such securities or property as authorized under the laws of this state, or may deposit funds of the estate with any bank in this state or with a trust company authorized to transact a trust business in this state or in an account in an insured savings and loan association, but only upon prior order of the court. A signed duplicate or certified copy of the petition for authority to invest shall be sent, and notice of the hearing on the petition shall be given, to the proper office of the Veterans Administration in the same manner as is provided in the case of the hearing on a guardian's account under Section 2908.

(b) Notwithstanding subdivision (a), the funds may be invested, without court authorization, in direct unconditional interest-bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States

2912 A guardian shall not apply any portion of the income or the estate for the support or maintenance of any person other than the ward, except upon petition to and authorization by order of the court after a hearing. A signed duplicate or certified copy of the petition shall be sent, and notice of the hearing on the petition shall be given, to the proper office of the Veterans Administration in the same manner as is provided in the case of the hearing on a guardian's account under Section 2908.

2913. (a) The court may authorize the purchase of real property in this state in which the guardian has no interest, but only as a home for the ward, or to protect the interest of the ward, or (if the ward is not a minor) as a home for the ward's dependent family. Such purchase of real property shall not be made except upon the entry of an order of the court after hearing upon petition. A signed duplicate or certified copy of the petition shall be sent, and notice of the hearing on the petition shall be given, to the proper office of the Veterans Administration in the same manner as is provided in the case of the hearing on a guardian's account under Section 2908.

(b) Before authorizing the purchase of real property under this section, the court shall require written evidence of value and of title and of the advisability of acquiring the real property Title shall be taken in the ward's name.

(c) This section does not limit the right of the guardian on behalf of the ward to bid and to become the purchaser of real property at a sale thereof pursuant to decree of foreclosure of lien held by or for

the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; nor does it limit the right of the guardian, if such be necessary to protect the ward's interests and upon prior order of the court in which the guardianship is pending, to agree with cotenants of the ward for a partition in kind, or to purchase from cotenants the entire undivided interest held by them, or to bid and purchase the same at a sale under a partition decree, or to compromise adverse claims of title to the ward's real property.

2914. When a copy of any public record is required by the Veterans Administration to be used in determining the eligibility of any person to participate in benefits made available by the Veterans Administration, the official charged with the custody of such public record shall without charge provide the applicant for such benefits or any person acting on the applicant's behalf or the authorized representative of the Veterans Administration with a certified copy of such record.

2915. A certificate by the Veterans Administration showing that a minor ward has attained majority, or that an incompetent ward has been rated competent by the Veterans Administration, and that the guardianship is no longer necessary as a condition to the payment of any moneys due the ward by the Veterans Administration, is prima facie evidence that the guardianship is no longer necessary Upon hearing after such notice as the court may require and the determination by the court that the guardianship is no longer necessary, an order shall be entered to that effect, and the guardian shall file a final account. Upon hearing after notice to the former ward and to the Veterans Administration in the same manner as is provided in the case of the hearing on a guardian's account under Section 2908, upon approval of the final account, and upon delivery to the ward of the assets due to the ward from the guardian, the guardian shall be discharged and the guardian's sureties released.

2916 The provisions of this part relating to surety bonds and the administration of estates of wards apply to all "income" and "estate" as defined in Section 2901 whether the guardian has been appointed under this part or under any other law of this state, special or general, prior or subsequent to the enactment of this part.

2917. The powers and duties of a guardian appointed under this part apply only to "income" and "estate" as defined in Section 2901. Except where inconsistent with this part, the laws of this state relating to guardian and ward or conservator and conservatee, as the case may be, and the judicial practice relating thereto, including the right of appeal, apply to the exercise of those powers and duties and to the settlement of accounts.

2918. This part shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it

PART 6. MANAGEMENT OR DISPOSITION OF COMMUNITY OR HOMESTEAD PROPERTY WHERE SPOUSE LACKS LEGAL CAPACITY

CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

Article 1. Definitions

3000. Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this part.

3002. "Community property" means community real property and community personal property, including but not limited to community property on which a homestead has been declared and a community property business that is or was under the sole management and control of one of the spouses, but does not include community property in a revocable trust described in Section 5113.5 of the Civil Code.

3004. "Conservator" means conservator of the estate and includes the guardian of the estate of a married minor.

3006. "Conservatorship estate" includes the guardianship estate of a married minor.

3008. "Conservatorship proceeding" means conservatorship of the estate proceeding and includes a guardianship of the estate proceeding of a married minor.

3010. "Homestead" means a homestead declared by either or both spouses on community property or on the separate property of a spouse but does not include a married person's separate homestead under Chapter 5 (commencing with Section 1300) of Title 5 of Part 4 of Division 2 of the Civil Code.

3012. (a) Unless the spouse lacks legal capacity under the applicable standard prescribed in subdivision (b), a spouse has legal capacity to:

(1) Manage and control community property, including legal capacity to dispose of community property.

(2) Join in or consent to a transaction involving community or homestead property.

(b) A spouse lacks legal capacity to:

(1) Manage and control, including legal capacity to dispose of, community property if the spouse is substantially unable to manage or control the community property.

(2) Join in or consent to a transaction involving community or homestead property if the spouse does not have legal capacity for the particular transaction measured by principles of law otherwise applicable to the particular transaction.

(3) Do any act, or engage in any activity, described in paragraph (1) or (2) if the spouse has a conservator.

(c) Nothing in this section shall be construed to deny a spouse, whether or not lacking legal capacity, any of the following:

(1) The right to control an allowance provided under Section 2421.

(2) The right to control wages or salary to the extent provided in Section 2601.

(3) The right to make a will subject to the limitations of Chapter 1 (commencing with Section 20) of Division 1.

(4) The right to enter into transactions to the extent reasonable to provide the necessities of life to the spouse, the other spouse, and the minor children of the spouses.

Article 2. General Provisions

3020 (a) The proceeds, rents, issues, and profits of community property dealt with or disposed of under this division, and any property taken in exchange for the community property or acquired with the proceeds, are community property.

(b) Except as provided in this part for the management, control, and disposition of community property, nothing in this division alters the rights of the spouses in community property or in the proceeds, rents, issues, or profits of community property.

3021. (a) The court authorizing a sale or exchange pursuant to this division of community or separate property subject to a homestead may, upon its own motion or upon request, make an order authorizing or requiring the investment of the proceeds, or part thereof, in another home for the spouses, to be held as community or separate property in the same manner as the homestead property sold or exchanged.

(b) The court authorizing a conservator to join in the sale or exchange of community or separate property subject to a homestead may, upon its own motion or upon request, make an order authorizing such joinder on the condition that the proceeds, or part thereof, be invested in another home for the spouses, to be held as community or separate property in the same manner as the homestead property sold or exchanged.

3022. (a) The proceeds of a sale pursuant to this division of community or separate property subject to a homestead shall enjoy the exemption prescribed in Section 1265 of the Civil Code.

(b) Any property taken pursuant to this division in exchange for community or separate property subject to a homestead, and any property acquired with the proceeds of a sale thereof, shall enjoy the exemption prescribed by Section 1265a of the Civil Code if the declaration required by that section is filed within the time therein prescribed by such person or persons as the court authorizing the sale or exchange may by order designate

3023. (a) Except as provided in subdivisions (b) and (c), where one or both of the spouses has a conservator, the court in which any of the conservatorship proceedings is pending may hear and determine any of the following when the issue is raised in any proceeding under this division.

(1) The validity of a homestead.

(2) Whether property is community property or the separate property of either spouse.

(b) Any person having or claiming title to or an interest in the property, at or prior to the hearing on the issue, may object to the hearing if the court is not the proper court under any other provision of law for the trial of an action to determine the issue If the objection is established, the court shall not hear and determine the issue.

(c) If a civil action is pending with respect to the issue and jurisdiction has been obtained in the court in which the civil action is pending, upon request of any party to the civil action, the court shall abate the hearing until the conclusion of the civil action.

CHAPTER 2 MANAGEMENT, CONTROL, AND DISPOSITION

Article 1 Management, Control, and Disposition Generally

3051. (a) Subject to Section 3071, the right of a spouse to manage and control community property, including the right to dispose of community property, is not affected by the lack or alleged lack of legal capacity of the other spouse.

(b) Except as provided in subdivision (c), if one spouse has legal capacity and the other has a conservator:

(1) The spouse who has legal capacity has the exclusive management and control of the community property including, subject to Section 3071, the exclusive power to dispose of the community property

(2) The community property is not part of the conservatorship estate

(c) If one spouse has legal capacity and the other has a conservator, the spouse having legal capacity may consent, by a writing filed in the proceeding, that all or part of the community property be included in and, subject to Section 3071, be managed, controlled, and disposed of as a part of the conservatorship estate.

(d) Except as provided in subdivision (e), if both spouses have conservators, an undivided one-half interest in the community property shall be included in and, subject to Section 3071, be managed, controlled, and disposed of as a part of the conservatorship estate of each spouse

(e) If both spouses have conservators, when authorized by order of the court in which any of the conservatorship proceedings is pending, the conservators may agree in writing that all or specific parts of the community property shall be included in the conservatorship estate of one or the other of the spouses and, subject to Section 3071, be managed, controlled, and disposed of as a part of the conservatorship estate of that spouse

3052. If a spouse has a conservator and owns separate property subject to a homestead (other than separate property owned by both spouses as joint tenants, tenants in common, or otherwise), the

property shall be included in and, subject to Section 3071, be dealt with and disposed of as a part of the conservatorship estate

3053. (a) As used in this section, "homestead property" means separate property subject to a homestead that is owned by both spouses as joint tenants, tenants in common, or otherwise.

(b) If one spouse has legal capacity and the other spouse has a conservator:

(1) The conservator may, after authorization by order of the court in which the conservatorship proceeding is pending, consent in writing that the spouse having legal capacity shall have the right to manage and control and, subject to Section 3071, dispose of the homestead property.

(2) The spouse having legal capacity may consent in writing that homestead property be included in and, subject to Section 3071, be dealt with and disposed of as a part of the conservatorship estate.

(c) Except as provided in subdivision (d), if both spouses have conservators, the interest of each spouse in the homestead property shall be included in and, subject to Section 3071, be dealt with and disposed of as a part of the conservatorship estate of that spouse.

(d) If both spouses have conservators, the conservators may, after authorization by order of the court in which any of the conservatorship proceedings is pending, agree in writing that the homestead property be included in the guardianship estate of one of the spouses and, subject to Section 3071, be dealt with and disposed of as a part of the conservatorship estate of that spouse.

3054. When homestead property as defined in Section 3053 or community property is included or proposed to be included in the conservatorship estate of a spouse, the court in which the conservatorship proceeding is pending, upon its own motion or upon petition of a spouse having legal capacity or the conservator of either spouse and upon such notice to such persons as the court prescribes, may do any of the following:

(a) Determine that the inclusion of some or all of the homestead property or community property that is proposed to be included in the conservatorship estate would not be in the best interest of the spouses or their estates and order that such property not be included.

(b) Permit revocation of a written consent for inclusion of property in the conservatorship estate, with or without terms or conditions.

(c) Determine that the continued inclusion of some or all of the homestead property or community property in the conservatorship estate is not in the best interest of the spouses or their estates and order that the inclusion of such property in the conservatorship estate be terminated, with or without terms or conditions.

(d) Make such other orders as may be appropriate for the orderly administration of the conservatorship estate or to protect the interests of the spouses.

3055. (a) If consent is given under this article that homestead property as defined in Section 3053 or community property be

included in the conservatorship estate of a spouse, the death of either spouse terminates the consent

(b) If a spouse consents under this article that homestead property as defined in Section 3053 or community property be included in the conservatorship estate of the other spouse:

(1) Subject to paragraph (2), the subsequent lack of legal capacity of the spouse giving the consent has no effect on the inclusion of the property in the conservatorship estate of the other spouse.

(2) The appointment of a conservator for the spouse giving the consent terminates the consent.

3056. Except as otherwise provided in this part and subject to Section 3071, when homestead property or community property is included in a conservatorship estate under this article for the purpose of management, control, and disposition, the conservator has the same powers and duties with respect to such property as the conservator has with respect to other property of the conservatorship estate.

3057 (a) Where a spouse lacks legal capacity and does not have a conservator, any interested person who has knowledge or reason to believe that the rights of such spouse in the community property are being prejudiced may bring an action on behalf of such spouse to enforce the duty of good faith in the management and control of the community property and to obtain such relief as may be appropriate.

(b) If one spouse has a conservator and the other spouse is managing or controlling community property, the conservator has the duty to keep reasonably informed concerning the management and control, including the disposition, of the community property. If the conservator has knowledge or reason to believe that the rights of the conservatee in the community property are being prejudiced, the conservator may bring an action on behalf of the conservatee to enforce the duty of good faith in the management and control of the community property and to obtain such relief as may be appropriate.

Article 2 Substitute for Joinder or Consent Requirements

3070 If the requirements of this article are satisfied with respect to a transaction described in Section 3071, the transaction is deemed to satisfy the joinder or consent requirements of the statute referred to in that section.

3071 (a) In case of a transaction for which the joinder or consent of both spouses is required by Section 1242, 1243, 5125, or 5127 of the Civil Code or by any other statute, if one or both spouses lacks legal capacity for the transaction, the requirement of joinder or consent shall be satisfied as provided in this section

(b) Where one spouse has legal capacity for the transaction and the other spouse has a conservator, the requirement of joinder or consent is satisfied if both of the following are obtained

(1) The joinder or consent of the spouse having legal capacity.

(2) The joinder or consent of the conservator of the other spouse given in compliance with Section 3072.

(c) Where both spouses have conservators, the joinder or consent requirement is satisfied by the joinder or consent of each such conservator given in compliance with Section 3072.

(d) In any case, the requirement of joinder or consent is satisfied if the transaction is authorized by an order of court obtained in a proceeding pursuant to Chapter 3 (commencing with Section 3100).

3072 (a) Except as provided in subdivision (b), a conservator may join in or consent to a transaction under Section 3071 only after authorization by either of the following

(1) An order of the court obtained in the conservatorship proceeding upon a petition filed pursuant to Section 2403 or under Article 7 (commencing with Section 2540) or 10 (commencing with Section 2580) of Chapter 6 of Part 4

(2) An order of the court made in a proceeding pursuant to Chapter 3 (commencing with Section 3100).

(b) A conservator may consent without court authorization to a sale, conveyance, or encumbrance of community personal property requiring consent under subdivision (c) of Section 5125 of the Civil Code if the conservator could sell or transfer such property under Section 2545 without court authorization if the property were a part of the conservatorship estate.

3073 (a) The joinder or consent under Section 3071 of a spouse having legal capacity shall be in such manner as complies with Section 1242, 1243, 5125, or 5127 of the Civil Code or other statute that applies to the transaction.

(b) The joinder or consent under Section 3071 of a conservator shall be in the same manner as a spouse would join in or consent to the transaction under the statute that applies to the transaction except that the joinder or consent shall be executed by the conservator and shall refer to the court order, if one is required, authorizing the conservator to join in or consent to the transaction

3074. Notwithstanding any other provision of this article, a transaction that affects real property, entered into by a purchaser or encumbrancer in good faith and for a valuable consideration, is not affected by the fact that one or both spouses have conservators unless a notice of the establishment of the conservatorship or conservatorships, as the case may be, has been recorded prior to the transaction in the county in which the property is located

CHAPTER 3. PROCEEDING FOR PARTICULAR TRANSACTION

Article 1. General Provisions

3100. As used in this chapter, "transaction" means a transaction that involves homestead property or community real or personal property, tangible or intangible, or an interest therein or a lien or encumbrance thereon, including, but not limited to, those

transactions with respect thereto as are listed in Section 3102.

3101. (a) A proceeding may be brought under this chapter for a court order authorizing a proposed transaction, whether or not the proposed transaction is one that otherwise would require the joinder or consent of both spouses, if both of the following conditions are satisfied:

(1) One of the spouses is alleged to lack legal capacity for the proposed transaction, whether or not that spouse has a conservator.

(2) The other spouse either has legal capacity for the proposed transaction or has a conservator.

(b) A proceeding may be brought under this chapter for a court order declaring that one or both spouses has legal capacity for a proposed transaction.

(c) One proceeding may be brought under this chapter under both subdivision (a) and subdivision (b).

(d) In a proceeding under this chapter, the court may determine whether the property that is the subject of the proposed transaction is subject to a valid homestead and whether the property that is the subject of the proposed transaction is community property or the separate property of either spouse, but such determination shall not be made in the proceeding under this chapter if the court determines that the interest of justice requires that the determination be made in a civil action.

(e) This chapter is permissive and cumulative for the transactions to which it applies.

3102. The transactions that may be the subject of a proceeding under this chapter include, but are not limited to:

(a) Sale, conveyance, assignment, transfer, exchange, conveyance pursuant to a preexisting contract, encumbrance by security interest, deed of trust, mortgage, or otherwise, lease, including but not limited to a lease for the exploration for and production of oil, gas, minerals, or other substances, or unitization or pooling with other property for or in connection with such exploration and production.

(b) Assignment, transfer, or conveyance, in whole or in part, in compromise or settlement of an indebtedness, demand, or proceeding to which the property may be subject.

(c) Dedication or conveyance, with or without consideration, of (1) the property or an interest therein to a public entity (including but not limited to the United States or an agency or instrumentality thereof) for any purpose or (2) an easement over the property to any person for any purpose.

(d) Conveyance, release, or relinquishment to a public entity, with or without consideration, of any access rights to a street, highway, or freeway from the property.

(e) Consent as a lienholder to a dedication, conveyance, release, or relinquishment under subdivision (c) or (d) by the owner of property subject to the lien.

(f) Conveyance or transfer, without consideration, to provide gifts for such purposes, and to such charities, relatives (including one of

the spouses), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the spouses.

Article 2. Commencement of Proceeding

3110. (a) A proceeding under this chapter shall be brought by a petition filed in the superior court

(b) Except as provided in subdivision (d), if the proceeding affects real property or a lien or encumbrance on real property, the proper county for commencement of the proceeding is either of the following:

(1) The county in which the real property, or some part thereof, is situated.

(2) The county in which a conservatorship proceeding of one of the spouses is pending.

(c) Except as provided in subdivision (d), if the proceeding affects only personal property, other than a lien or encumbrance on real property, the proper county for commencement of the proceeding is any of the following:

(1) The county in which one or both of the spouses resides at the time the petition is filed.

(2) The county in which a conservatorship proceeding of one of the spouses is pending.

(3) Such other county as may be in the best interests of the spouses.

(d) If both spouses have conservators and the conservatorship proceedings are pending in the same county, the proper county for the commencement of the proceeding, whether the proceeding affects real or personal property, is the county in which the conservatorship proceedings are pending.

3111 (a) Except as provided in subdivision (b), any of the following persons may file, or join in, a petition under this chapter:

(1) Either spouse, whether or not the spouse has legal capacity.

(2) The conservator of either spouse.

(b) If the petition requests approval of a proposed transaction, at least one of the petitioners shall be either a conservator or a spouse having legal capacity for the transaction.

3112. (a) If a petitioning spouse is one whose legal capacity for the proposed transaction is to be determined in the proceeding, the court may do any of the following:

(1) Permit the spouse to appear without a representative.

(2) Appoint a guardian ad litem for the spouse.

(3) Take such other action as the circumstances warrant.

(b) If a petitioning spouse lacks legal capacity for the proposed transaction, the court may do either of the following:

(1) Require the spouse to be represented by the conservator of the spouse

(2) Appoint a guardian ad litem for the spouse.

3113. A proceeding may be brought under this chapter by the

conservator of a spouse, or by a spouse having legal capacity for the proposed transaction, without the necessity of appointing a conservator for the other spouse.

Article 3. Petition

3120. (a) Several proposed transactions may be included in one petition and proceeding under this chapter.

(b) The petition may contain inconsistent allegations and may request relief in the alternative.

3121. The petition shall set forth all of the following information:

(a) The name, age, and residence of each spouse.

(b) If one or both spouses is alleged to lack legal capacity for the proposed transaction, a statement that the spouse has a conservator or a statement of the facts upon which the allegation is based.

(c) If there is a conservator of a spouse, the name and address of the conservator, the county in which the conservatorship proceeding is pending, and the court number of the proceeding.

(d) If a spouse alleged to lack legal capacity for the proposed transaction is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the name and address of the institution.

(e) The names and addresses of the adult relatives within the second degree of each spouse alleged to lack legal capacity for the proposed transaction, if known to the petitioner.

(f) A sufficient description of the property that is the subject of the proposed transaction.

(g) An allegation of the status of the property, whether community property, community property subject to a homestead, or separate property subject to a homestead.

(h) The estimated value of the property.

(i) The terms and conditions of the proposed transaction, including the names of all parties thereto.

(j) The relief requested.

3122. If the proceeding is brought for a court order authorizing a proposed transaction, the petition shall set forth, in addition to the information required by Section 3121, all of the following:

(a) An allegation that one of the spouses has a conservator or facts establishing lack of legal capacity of the spouse for the proposed transaction.

(b) An allegation that the other spouse has legal capacity for the proposed transaction or has a conservator.

(c) An allegation that each spouse either: (1) joins in or consents to the proposed transaction, (2) has a conservator, or (3) is substantially unable to manage his or her financial resources or resist fraud or undue influence.

(d) Facts that may be relied upon to show that the authorization sought is for one or more of the following purposes:

(1) The advantage, benefit, or best interests of the spouses or their estates.

(2) The care and support of either spouse or of such persons as either spouse may be legally obligated to support.

(3) The payment of taxes, interest, or other encumbrances or charges for the protection and preservation of the homestead or community property.

(4) The providing of gifts for such purposes, and to such charities, relatives (including one of the spouses), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the spouses.

3123. If the proceeding is brought for a court order declaring that one or both spouses has legal capacity for a proposed transaction, the petition shall set forth, in addition to the information required by Section 3121, an allegation of the legal capacity of such spouse or spouses for the proposed transaction.

Article 4. Citation and Notice of Hearing

3130. (a) Except as provided in subdivision (b), upon the filing of the petition, the clerk shall issue a citation to each nonpetitioning spouse alleged to lack legal capacity for the proposed transaction, setting forth the time and place of hearing. The citation and a copy of the petition shall be served upon the spouse at least 15 days before the hearing.

(b) Unless the court otherwise orders, if a spouse alleged to lack legal capacity for the proposed transaction has a conservator, no citation to the spouse need be issued, and the petitioner shall cause a notice of the time and place of the hearing on the petition, accompanied by a copy of the petition, to be served on the conservator at least 15 days before the hearing.

(c) Service under this section shall be made in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure or in such other manner as may be authorized by the court. If the person to be served is outside this state, service may also be made in the manner provided in Section 415.40 of the Code of Civil Procedure.

3131. (a) At least 15 days before the hearing on the petition, the petitioner shall cause a notice of the time and place of the hearing and a copy of the petition to be served upon any nonpetitioning spouse not alleged to lack legal capacity for the proposed transaction.

(b) Service under subdivision (a) shall be made in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure or in such other manner as may be authorized by the court. If the person to be served is outside this state, service may also be made in the manner provided in Section 415.40 of the Code of Civil Procedure.

(c) At least 15 days before the hearing on the petition, the petitioner shall mail a notice of the time and place of the hearing on the petition, accompanied by a copy of the petition, to the adult

relatives named in the petition at the addresses set forth in the petition.

Article 5. Hearing and Order

3140. (a) A conservator served pursuant to this article shall, and the Director of Mental Health or the Director of Developmental Services given notice pursuant to Section 1461 may, appear at the hearing and represent a spouse alleged to lack legal capacity for the proposed transaction.

(b) If a spouse alleged to lack legal capacity is not otherwise represented, the court may in its discretion appoint the public guardian, public administrator, or a guardian ad litem to represent the interests of the spouse.

(c) If a spouse alleged to lack legal capacity is unable to retain legal counsel, upon request of the spouse, the court shall appoint the public defender or private counsel under Section 1471 to represent the spouse and, if such appointment is made, Section 1472 applies.

(d) Except as provided in subdivision (c), the court may fix a reasonable fee, to be paid out of the proceeds of the transaction or otherwise as the court may direct, for all services rendered by privately engaged counsel, the public guardian, public administrator, or guardian ad litem, and by counsel for such persons.

3141. (a) If a spouse is alleged to lack legal capacity for the proposed transaction and has no conservator, the spouse shall be produced at the hearing unless unable to attend the hearing.

(b) If the spouse is not able to attend the hearing because of medical inability, such inability shall be established (1) by the affidavit or certificate of a licensed medical practitioner or (2) if the spouse is an adherent of a religion whose tenets and practices call for reliance upon prayer alone for healing and is under treatment by an accredited practitioner of the religion, by the affidavit of the practitioner.

(c) Emotional or psychological instability is not good cause for absence of the spouse from the hearing unless, by reason of such instability, attendance at the hearing is likely to cause serious and immediate physiological damage.

3142. (a) If a spouse is alleged to lack legal capacity for the proposed transaction and has no conservator, the court, before commencement of the hearing on the merits, shall inform the spouse of all of the following:

(1) A determination of lack of legal capacity for the proposed transaction may result in approval of the proposed transaction.

(2) The spouse has the right to legal counsel of the spouse's own choosing, including the right to have legal counsel appointed by the court if unable to retain legal counsel.

(b) This section does not apply if the spouse is absent from the hearing and is not required to attend the hearing under the provisions of subdivision (a) of Section 3141 and any showing

required by Section 3141 has been made

3143. (a) If the petition requests that the court make an order declaring a spouse to have legal capacity for the proposed transaction and the court determines that the spouse has legal capacity for the proposed transaction, the court shall so order.

(b) If the petition alleges that a spouse having no conservator lacks legal capacity for the proposed transaction and the court determines that the spouse has legal capacity for the transaction, the court shall make an order so declaring.

3144 (a) The court may authorize the proposed transaction if the court determines all of the following:

(1) The property that is the subject of the proposed transaction is homestead or community property of the spouses.

(2) One of the spouses then has a conservator or otherwise lacks legal capacity for the proposed transaction.

(3) The other spouse either has legal capacity for the proposed transaction or has a conservator.

(4) Each of the spouses either (i) joins in or consents to the proposed transaction, (ii) has a conservator, or (iii) is substantially unable to manage his or her own financial resources or resist fraud or undue influence. Substantial inability may not be proved by isolated incidents of negligence or improvidence.

(5) The proposed transaction is one that should be authorized under this chapter.

(b) If the proposed transaction is to provide gifts for such purposes, and to such charities, relatives (including one of the spouses), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the spouses, the court may authorize the transaction under this chapter only if the transaction is one that the court would authorize under Article 10 (commencing with Section 2580) of Chapter 6 of Part 4 (substituted judgment) in the case of a conservatorship

(c) If the court determines under subdivision (a) that the transaction should be authorized, the court shall so order and may authorize the petitioner to do and perform all acts and to execute and deliver all papers, documents, and instruments necessary to effectuate the order.

(d) In an order authorizing a transaction, the court may prescribe such terms and conditions as the court in its discretion determines appropriate, including but not limited to requiring joinder or consent of another person.

3145. A court determination pursuant to this chapter that a spouse lacks legal capacity for the proposed transaction affects the legal capacity of the spouse for that transaction alone and has no effect on the legal capacity of the spouse for any other purpose.

Article 6. Consummation of Transaction

3150 (a) Unless the court for good cause dispenses with the bond, the court shall require the petitioner to give a bond, in the amount fixed by the court, conditioned on the duty of the petitioner to account for and apply the proceeds of the transaction to be received by the petitioner only as the court may by order direct.

(b) Unless the court for good cause fixes the amount of the bond in a lesser amount, if given by an authorized surety company, the bond shall be in an amount not less than the value of the personal property (including cash and any notes) to be received by the petitioner, as determined by the court.

(c) If the sureties on the bond are individual sureties, the bond shall be approved by the court and shall be for twice the amount required for a bond given by an authorized surety company.

(d) Sections 2328, 2329, 2331, 2334, 2335, and 2336 are applicable to the bond of the petitioner under this chapter.

3151 (a) The petitioner shall, upon receipt of the consideration therefor, execute, acknowledge, and deliver any necessary instruments or documents as directed by the court, setting forth therein that they are made by authority of the order.

(b) The petitioner shall cause a certified copy of the order to be recorded in the office of the recorder of each county in which is situated any real property affected by the order or any real property upon which there is a lien or encumbrance affected by the order.

(c) If a sale is made upon a credit pursuant to the order, the petitioner shall take the note of the person to whom the sale is made for the amount of the unpaid balance of the purchase money, with such security for the payment thereof as the court shall by order approve. The note shall be made payable to the petitioner or, if the petition was made by a conservator, to the petitioner as conservator.

3152. A sale, conveyance, assignment, transfer, exchange, encumbrance, security interest, mortgage, deed of trust, lease, dedication, release, or relinquishment, and any instrument or document, made pursuant to the court's order, is as valid and effectual as if the property affected thereby were the sole and absolute property of the person making it.

3153. Notes, encumbrances, security interests, mortgages, leases, or deeds of trust, executed as provided in this chapter by a petitioning conservator create no personal liability against the conservator so executing, unless the conservator is one of the spouses and then only to the extent that personal liability would have resulted had both spouses had legal capacity for the transaction and joined in the execution

3154 (a) If any party to the transaction, other than the petitioner, does not consummate a transaction authorized by the court, the court, on application of the petitioner, after such notice to the parties to the transaction as the court directs, may vacate the order authorizing the transaction

(b) If the order authorized the sale or encumbrance of property, the petitioner may by supplemental petition apply to the court for an order authorizing any other sale or encumbrance of the property to the advantage, benefit, or best interests of the spouses or their estates. The supplemental petition and a notice of the time and place of the hearing shall be served and mailed as provided in Article 4 (commencing with Section 3130) except that (1) no further citation shall be issued and (2) a copy of the supplemental petition and a notice of the time and place of the hearing shall be served upon any person who has appeared as representative of a nonpetitioning spouse or upon counsel of record for a nonpetitioning spouse or as the court may otherwise direct.

(c) If it appears to the court that the other sale or encumbrance is to the advantage, benefit, or best interests of the spouses or their estates and that the request in the supplemental petition that the transaction be authorized should be granted, the court may so order and may authorize the petitioner to do and perform acts and to execute and deliver all papers, documents, and instruments necessary to effectuate the order.

PART 7. AUTHORIZATION OF MEDICAL TREATMENT FOR ADULT WITHOUT CONSERVATOR

3200. As used in this part, "patient" means an adult who does not have a conservator of the person and who is in need of medical treatment

3201 If a patient requires medical treatment for an existing or continuing medical condition and the patient is unable to give an informed consent to such medical treatment, a petition may be filed under this part for an order authorizing such medical treatment and authorizing the petitioner to give consent to such treatment on behalf of the patient.

3202. The petition may be filed in the superior court of any of the following counties:

(a) The county in which the patient resides.

(b) The county in which the patient is temporarily living.

(c) Such other county as may be in the best interests of the patient

3203. A petition may be filed by any of the following:

(a) The patient

(b) The spouse of the patient

(c) A relative or friend of the patient or other interested person

(d) The patient's physician.

(e) A person acting on behalf of the medical facility in which the patient is located if the patient is in a medical facility

(f) The public guardian or such other county officer as is designated by the board of supervisors of the county in which the patient is located or resides or is temporarily living.

3204 The petition shall state, or set forth by medical affidavit attached thereto, all of the following so far as is known to the petitioner at the time the petition is filed.

(a) The nature of the medical condition of the patient which requires treatment.

(b) The recommended course of medical treatment which is considered to be medically appropriate.

(c) The threat to the health of the patient if authorization for the recommended course of treatment is delayed or denied by the court.

(d) The predictable or probable outcome of the recommended course of treatment.

(e) The medically available alternatives, if any, to the course of treatment recommended.

(f) The efforts made to obtain an informed consent from the patient.

(g) If the petition is filed by a person on behalf of a medical facility, the name of the person to be designated to give consent to the recommended course of treatment on behalf of the patient.

3205. Upon the filing of the petition, the court shall determine the name of the attorney the patient has retained to represent the patient in the proceeding under this part or the name of the attorney the patient plans to retain for that purpose. If the patient has not retained an attorney and does not plan to retain one, the court shall appoint the public defender or private counsel under Section 1471 to consult with and represent the patient at the hearing on the petition and, if such appointment is made, Section 1472 applies.

3206. (a) Notice of the time and place of the hearing on the petition shall be given for the period and in the manner prescribed by order of court. In determining the period of notice to be required, the court shall take into account (1) the existing medical facts and circumstances set forth in the petition or in a medical affidavit attached to the petition or in a medical affidavit presented to the court and (2) the desirability, where the condition of the patient permits, of giving adequate notice to all interested persons.

(b) A notice of the time and place of the hearing or a copy of the order prescribing the time and place of the hearing, and a copy of the petition, shall be given, as prescribed in the order, to all of the following:

(1) The patient.

(2) The attorney for the patient.

(3) Such other persons, if any, as the court in its discretion may require in the order, which may include the spouse of the patient and any known relatives of the patient within the second degree.

3207. Notwithstanding Section 3206, the matter presented by the petition may be submitted for the determination of the court upon proper and sufficient medical affidavits or declarations if the attorney for the petitioner and the attorney for the patient so stipulate and further stipulate that there remains no issue of fact to be determined.

3208. (a) The court may make an order authorizing the recommended course of medical treatment of the patient and designating a person to give consent to the recommended course of medical treatment on behalf of the patient if the court determines from the evidence all of the following:

(1) The existing or continuing medical condition of the patient requires the recommended course of medical treatment.

(2) If untreated, there is a probability that the condition will become life-endangering or result in a serious threat to the physical health of the patient.

(3) The patient is unable to give an informed consent to the recommended course of treatment.

(b) If the patient has the capacity to give an informed consent to the recommended course of medical treatment but refuses to do so, the court is not authorized to make an order under this part. If an order has been made under this part, the order shall be revoked if the court determines that the patient has recovered the capacity to give informed consent to the recommended course of medical treatment. Until revoked or modified, the order is effective authorization of the course of medical treatment.

3209. The court in which the petition is filed has continuing jurisdiction to revoke or modify an order made under this part upon a petition filed, noticed, and heard in the same manner as an original petition filed under this part.

3210. (a) This part is supplemental and alternative to other procedures or methods for obtaining medical consent.

(b) Nothing in this part limits the providing of medical treatment in an emergency case in which the medical treatment is required because (1) such treatment is required for the alleviation of severe pain or (2) the patient has a medical condition which, if not immediately diagnosed and treated, will lead to serious disability or death

3211. (a) No person may be placed in a mental health treatment facility under the provisions of this part

(b) No experimental drug as defined in Section 26668 of the Health and Safety Code may be prescribed for or administered to any person under this part.

(c) No convulsive treatment as defined in Section 5325 of the Welfare and Institutions Code may be performed on any person under this part.

(d) No person may be sterilized under this part.

(e) The provisions of this part are subject to any valid and effective directive of the patient under Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code (Natural Death Act).

PART 8. OTHER PROTECTIVE PROCEEDINGS

CHAPTER 1. GENERAL PROVISIONS

3300 A parent who receives any money or property belonging to a minor under any provision of this part shall account to the minor for the money or other property when the minor reaches the age of majority

3301 Whenever it appears to the satisfaction of the superior court by application of the minor concerned that the consent of a parent or guardian is necessary to permit hospital or medical care or

enlistment in the armed services for or by a minor of the age of 16 years or over residing in the State of California and that such minor has no parent or guardian available to give such consent, the court may summarily grant such consent. No fee shall be charged for proceedings under this section.

3302. A contract for attorney's fees for services in litigation, made by or on behalf of a minor, is void unless the contract is approved by the court in which the litigation is pending or the court having jurisdiction of the guardianship estate of the minor, upon petition of any interested person. When no such contract is approved and a judgment is recovered by or on behalf of a minor, the attorney's fees chargeable against the minor shall be fixed by the court rendering the judgment.

CHAPTER 2. MONEY OR PROPERTY BELONGING TO MINOR

Article 1. Total Estate Not in Excess of $5,000

3400. (a) As used in this article, "total estate of the minor" includes both the money and other property belonging to the minor and the money and other property belonging to the guardianship estate, if any, of the minor.

(b) In computing the "total estate of the minor" for the purposes of this article, all of the following shall be deducted:

(1) "Custodial property" held pursuant to the California Uniform Gifts to Minors Act, Article 4 (commencing with Section 1154) of Chapter 3 of Title 4 of Part 4 of Division 2 of the Civil Code.

(2) Any money or property subject to court order pursuant to subdivision (c) of Section 3602 or Article 2 (commencing with Section 3610) of Chapter 4.

3401. (a) Where a minor does not have a guardian of the estate, money or other property belonging to the minor may be paid or delivered to a parent of the minor entitled to the custody of the minor to be held in trust for the minor until the minor reaches majority if the requirements of subdivision (c) are satisfied.

(b) Where the minor has a guardian of the estate, all the money and other property belonging to the guardianship estate may be paid or delivered to a parent entitled to the custody of the minor to be held in trust for the minor until the minor reaches majority if the requirements of subdivision (c) are satisfied.

(c) This section applies only if both of the following requirements are satisfied:

(1) The total estate of the minor, including the money and other property to be paid or delivered to the parent, does not exceed five thousand dollars ($5,000) in value.

(2) The parent to whom the money or other property is to be paid or delivered gives the person making the payment or delivery written assurance, verified by the oath of such parent, that the total estate of the minor, including the money or other property to be paid or delivered to the parent, does not exceed five thousand dollars ($5,000) in value

3402. The written receipt of the parent giving the written assurance under Section 3401 shall be an acquittance of the person making the payment of money or delivery of other property pursuant to this article.

Article 2. Property in the Form of Money

3410. (a) This article applies to both of the following cases:

(1) Where the minor has a guardian of the estate and the sole asset of the guardianship estate is money.

(2) Where the minor has no guardian of the estate and there is money belonging to the minor

(b) This article does not apply to, and there shall be excluded in computing "money belonging to the minor" for the purpose of this article, all of the following:

(1) Money or property which is or will be held as "custodial property" pursuant to the California Uniform Gifts to Minors Act, Article 4 (commencing with Section 1154) of Chapter 3 of Title 4 of Part 4 of Division 2 of the Civil Code.

(2) Any money or property subject to court order pursuant to subdivision (c) of Section 3602 or Article 2 (commencing with Section 3610) of Chapter 4.

3411. (a) A parent of a minor entitled to custody of the minor, the guardian of the estate of the minor, or the person holding the money belonging to the minor may file a petition requesting that the court make an order under this article.

(b) The petition shall be filed in the superior court of:

(1) The county where the minor resides if the minor has no guardian of the estate.

(2) The county having jurisdiction of the guardianship estate if the minor has a guardian of the estate.

3412. If the minor has a guardian of the estate and the sole asset of the guardianship estate is money, the court may order that the guardianship of the estate be terminated and, if the court so orders, the court in its discretion shall also order any one or more of the following:

(a) That the money be deposited in a bank in this state or a trust company authorized to transact a trust business in this state or invested in an account in an insured savings and loan association or in shares of an insured credit union or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court.

(b) If the money of the guardianship estate does not exceed twenty thousand dollars ($20,000), that the money be held on such other conditions as the court in its discretion determines to be in the best interests of the minor.

(c) If the money of the guardianship estate does not exceed five thousand dollars ($5,000), that all or any part of the money be paid to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400)

3413. If the minor has no guardian of the estate and there is money belonging to the minor, the court may order that a guardian of the estate be appointed and that the money be paid to the guardian or the court may order any one or more of the following:

(a) That the money be deposited in a bank in this state or in a trust company authorized to transact a trust business in this state or invested in an account in an insured savings and loan association or in shares of an insured credit union or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court.

(b) If the money belonging to the minor does not exceed twenty thousand dollars ($20,000), that the money be held on such other conditions as the court in its discretion determines to be in the best interests of the minor.

(c) If the money belonging to the minor does not exceed five thousand dollars ($5,000), that all or any part of the money be paid to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400)

CHAPTER 3. COMPROMISE BY PARENT OF MINOR'S DISPUTED CLAIM

3500 (a) When a minor has a disputed claim for damages, money, or other property and does not have a guardian of the estate, the following persons have the right to compromise, or to execute a covenant not to sue on or a covenant not to enforce judgment on, the claim, unless the claim is against such person or persons:

(1) Either parent if the parents of the minor are not living separate and apart.

(2) The parent having the care, custody, or control of the minor if the parents of the minor are living separate and apart.

(b) The compromise or covenant is valid only after it has been approved, upon the filing of a petition, by the superior court of either of the following counties:

(1) The county where the minor resides when the petition is filed.

(2) Any county where suit on the claim or matter properly could be brought.

(c) Any money or other property to be paid or delivered for the benefit of the minor pursuant to the compromise or covenant shall be paid and delivered in the manner and upon the terms and conditions specified in Chapter 4 (commencing with Section 3600).

(d) A parent having the right to compromise the disputed claim of the minor under this section may execute a full release and satisfaction, or execute a covenant not to sue on or a covenant not to enforce judgment on the disputed claim, after the money or other property to be paid or delivered has been paid or delivered as provided in subdivision (c). If the court orders that all or any part of the money to be paid under the compromise or covenant be deposited in a bank or in a trust company authorized to transact a trust business in this state or invested in an account in an insured

savings and loan association or in shares of an insured credit union or in a single-premium deferred annuity, the release and satisfaction or covenant is not effective for any purpose until the money has been deposited or invested as directed in the order of the court.

CHAPTER 4. MONEY OR PROPERTY PAID OR DELIVERED PURSUANT TO COMPROMISE OR JUDGMENT FOR MINOR OR INCOMPETENT PERSON

Article 1. General Provisions

3600. This article applies whenever both of the following conditions exist:

(a) A court approves (1) a compromise of, or the execution of a covenant not to sue on or a covenant not to enforce judgment on, a minor's disputed claim or (2) approves a compromise of a pending action or proceeding to which a minor or incompetent person is a party or (3) gives judgment for a minor or incompetent person.

(b) The compromise, covenant, or judgment provides for the payment or delivery of money or other property for the benefit of the minor or incompetent person.

3601. (a) The court making the order or giving the judgment referred to in Section 3600, as a part thereof, shall make a further order authorizing and directing that such reasonable expenses (medical or otherwise and including reimbursement to a parent, guardian, or conservator), costs, and attorney's fees, as the court shall approve and allow therein, shall be paid from the money or other property to be paid or delivered for the benefit of the minor or incompetent person.

(b) The order required by subdivision (a) may be directed to the following:

(1) A parent of the minor, the guardian ad litem, or the guardian of the estate of the minor or the conservator of the estate of the incompetent person.

(2) The payer of any money to be paid pursuant to the compromise, covenant, or judgment for the benefit of the minor or incompetent person.

3602. (a) If there is no guardianship of the estate of the minor or conservatorship of the estate of the incompetent person, the remaining balance of the money and other property (after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601) shall be paid, delivered, deposited, or invested as provided in Article 2 (commencing with Section 3610).

(b) Except as provided in subdivision (c), if there is a guardianship of the estate of the minor or conservatorship of the estate of the incompetent person, the remaining balance of the money and other property (after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601) shall be paid or delivered to the guardian or conservator of the estate Upon application of the guardian or conservator, the court, making

the order or giving the judgment referred to in Section 3600 or the court in which the guardianship or conservatorship proceeding is pending may, with or without notice, make an order that all or part of the money paid or to be paid to the guardian or conservator under this subdivision be deposited or invested as provided in Section 2456.

(c) Upon ex parte petition of the guardian or conservator or upon petition of any person interested in the guardianship or conservatorship estate, the court making the order or giving the judgment referred to in Section 3600 may for good cause shown order that all or part of the remaining balance of money not become a part of the guardianship or conservatorship estate and instead be deposited in a bank in this state or in a trust company authorized to transact a trust business in this state or invested in an account in an insured savings and loan association or in shares of an insured credit union or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court. If the petition is by a person other than the guardian or conservator, notice of hearing on a petition under this subdivision shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1

3603. When reference is made in this chapter to "incompetent person," the reference shall be deemed to include "a person for whom a conservator may be appointed."

Article 2. Disposition of Money or Other Property Where No Guardianship or Conservatorship

3610. When money or other property is to be paid or delivered for the benefit of a minor or incompetent person under a compromise, covenant, order or judgment, and there is no guardianship of the estate of the minor or conservatorship of the estate of the incompetent person, the remaining balance of the money and other property (after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601) shall be paid, delivered, deposited, or invested as provided in this article.

3611 In any case described in Section 3610, the court making the order or giving the judgment referred to in Section 3600 shall order any one or more of the following:

(a) That a guardian of the estate or conservator of the estate be appointed and that the remaining balance of the money and other property be paid or delivered to the person so appointed.

(b) That the remaining balance of any money paid or to be paid be deposited in a bank in this state or in a trust company authorized to transact a trust business in this state or invested in an account in an insured savings and loan association or in shares of an insured credit union or in a single-premium deferred annuity, subject to withdrawal only upon the authorization of the court, and that the remaining balance of any other property delivered or to be delivered be held on such conditions as the court determines to be in the best interest of the minor or incompetent person.

(c) If the remaining balance of the money and other property to be paid or delivered does not exceed twenty thousand dollars ($20,000) in value, that all or any part of the money and other property be held on such other conditions as the court in its discretion determines to be in the best interest of the minor or incompetent person.

(d) If the remaining balance of the money and other property to be paid or delivered does not exceed five thousand dollars ($5,000) in value and is to be paid or delivered for the benefit of a minor, that all or any part of the money and the other property be paid or delivered to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400) of Chapter 2.

3612. Notwithstanding any other provision of law and except to the extent the court orders otherwise, the court making the order under Section 3611 shall have continuing jurisdiction of the money and other property paid, delivered, deposited, or invested under this article until the minor reaches the age of 18 years

CHAPTER 5 PERSONAL PROPERTY OF ABSENTEES

3700. As used in this chapter:

(a) "Absentee" is defined in Section 1403.

(b) "Eligible spouse" means the spouse of an absentee who has not commenced an action or proceeding for judicial or legal separation, divorce, annulment, adjudication of nullity, or dissolution of the marriage of the spouse and the absentee.

(c) "Family of an absentee" means an eligible spouse, if any, or if no eligible spouse, the child or children of an absentee, equally, or if no child or children, the parent or parents of an absentee, equally, and the guardian of the estate or conservator of the estate of any person bearing such relationship to the absentee

(d) "Secretary concerned" is defined in Section 1440.

3701. Upon petition as provided in this chapter, the court may set aside to the family of an absentee personal property of the absentee situated in this state for the purpose of managing, controlling, encumbering, selling, or conveying, or otherwise engaging in any transaction with respect to the property, if the court determines that to do so will be in the best interest of the absentee, including the interest of the absentee in providing for shelter, food, health care, education, transportation, or the maintenance of a reasonable and adequate standard of living for the family of the absentee. The absentee's interest in the property set aside shall not exceed twenty thousand dollars ($20,000)

3702 A petition that personal property of an absentee be set aside as provided in this chapter may be filed by any of the following persons

(a) A person in whose favor the personal property of the absentee may be set aside

(b) A person to whom the absentee has issued a general power of attorney while serving in the armed forces of the United States or

while an employee of any agency or department of the United States, provided the power of attorney was valid and effective at the time issued, regardless whether it has expired or terminated.

3703. (a) The petition shall contain all of the following:

(1) A statement that the petition is filed under this chapter.

(2) In its caption, the last known military rank or grade and the social security account number of the absentee.

(3) A specific description and estimate of the value of all of the absentee's property, wherever situated (including all sums due the absentee from the United States).

(4) A designation of the property to be set aside, and the facts establishing that setting aside the property is necessary and in the best interest of the absentee.

(5) If the property is to be set aside for the benefit of the spouse of the absentee, an allegation that the spouse is an eligible spouse.

(6) So far as known to the petitioner, the names and residences of all persons comprising the family of the absentee, and an allegation whether a guardian of the estate or a conservator of the estate of any member of the family of the absentee has been appointed.

(b) There shall be attached to the petition a certificate complying with Section 1283 of the Evidence Code showing the determination of the secretary of the military department or the head of the department or agency concerned or the delegate of the secretary or head that the absentee is in missing status. The certificate shall be received as evidence of that fact and the court shall not determine the status of the absentee inconsistent with the status shown in the certificate.

3704. (a) Notice of the nature of the proceedings and the time and place of the hearing shall be given by the petitioner at least 15 days before the hearing date by all of the following means·

(1) By mail, together with a copy of the petition, to all persons comprising the family of the absentee.

(2) By delivery by a method that would be sufficient for service of summons in a civil action, together with a copy of the petition, to the secretary concerned or to the head of the United States department or agency concerned.

(3) By publication pursuant to Section 6061 of the Government Code in a newspaper of general circulation in the county in which the proceedings will be held.

(b) Whenever notice to an officer or agency of this state or of the United States would be required under Section 1461 or Section 1822 upon petition for appointment of a conservator, like notice shall be given of the petition under this chapter

3705 (a) Upon the hearing of the petition, any officer or agency of this state or the United States or the authorized delegate of the officer or agency, or any relative or friend of the absentee, may appear and support or oppose the petition

(b) If the court determines that the allegations of the petition are true and correct, the court may order set aside to the family of the absentee personal property of the absentee situated in California

(excluding any sums due the absentee from the United States) in which the absentee's interest does not exceed twenty thousand dollars ($20,000). The property set aside shall be specified in the order.

(c) No bond shall be required of any person to whom property of the absentee has been set aside by order of the court pursuant to this chapter.

3706. A determination by the court that the value of all of the absentee's property, wherever situated, exceeds twenty thousand dollars ($20,000) or that the absentee owns or has an interest in real property, wherever situated, does not deprive the court of jurisdiction to set aside to the family of the absentee personal property of the absentee situated in California in which the absentee's interest does not exceed twenty thousand dollars ($20,000), and the court shall order set aside such personal property to the family of the absentee if the court finds that all of the other provisions of this chapter have been complied with. The property set aside shall be specified in the order

3707. For the purposes of this chapter, any property or interest therein or lien thereon that the absentee holds as joint tenant shall be included in determining the property of the absentee and its value The joint tenancy interest may be set aside to the family of the absentee as provided in this chapter but may only be set aside to a member of the absentee's family who was a joint tenant with the absentee in the property.

3708. (a) Within six months after the absentee has returned to the controllable jurisdiction of the military department or civilian agency or department concerned, or within six months after the determination of death of the absentee by the secretary concerned or the head of the department or agency concerned or the delegate of the secretary or head, the former absentee or the personal representative of the deceased absentee may, by motion in the same proceeding, require the person or persons to whom the property of the absentee was set aside to account for the property and the proceeds, if any The time of return to the controllable jurisdiction of the military department or civilian department or agency concerned or the determination of the time of death of the absentee shall be determined by the court under 37 United States Code, Section 556, or 5 United States Code, Section 5566. An official written report or record of the military department or civilian department or agency that the absentee has returned to its controllable jurisdiction or is deceased shall be received as evidence of that fact.

(b) This section does not in any manner derogate the finality and conclusiveness of any order, judgment, or decree previously entered in the proceeding.

CHAPTER 6 REMOVAL OF PROPERTY OF NONRESIDENT

3800. (a) If a nonresident has a duly appointed, qualified, and acting guardian, conservator, committee, or comparable fiduciary in

the place of residence and if no proceeding for guardianship or conservatorship of the nonresident is pending or contemplated in this state, the nonresident fiduciary may petition to have property owned by the nonresident removed to the place of residence.

(b) The petition for removal of property of the nonresident shall be filed in the superior court of the county in which the nonresident is or has been temporarily present or in which the property of the nonresident, or the principal part thereof, is situated.

3801. (a) The petition shall be made upon 15 days' notice, by mail or personal delivery, to all of the following persons:

(1) The executor or administrator or other person in whose possession the property may be.

(2) Persons in this state, known to the petitioner, who are obligated to pay a debt, perform an obligation, or issue a security to the nonresident or the estate of the nonresident.

(b) The petition shall be made upon such additional notice, if any, as the court may order.

3802. (a) The nonresident fiduciary shall produce and file one of the following certificates:

(1) A certificate that the fiduciary is entitled, by the laws of the place of appointment of the fiduciary, to the possession of the estate of the nonresident. The certificate shall be under the hand of the clerk and seal of the court from which the appointment of the fiduciary was derived and shall show a transcript of the record of appointment and that the fiduciary has entered upon the discharge of the duties of the fiduciary.

(2) A certificate that the fiduciary is entitled, by the laws of the place of residence, to custody of the estate of the nonresident, without the appointment of any court. The certificate shall be under the hand of the clerk and seal of either (i) the court in the place of residence having jurisdiction of estates of persons that have a guardian, conservator, committee, or comparable fiduciary or (ii) the highest court in the place of residence.

(b) In the case of a foreign country, the certificate shall be accompanied by a final statement certifying the genuineness of the signature and official position of (1) the court clerk making the original certificate or (2) any foreign official who has certified either the genuineness of the signature and official position of the court clerk making the original certificate or the genuineness of the signature and official position of another foreign official who has executed a similar certificate in a chain of such certificates beginning with a certificate of the genuineness of the signature and official position of the clerk making the original certificate The final statement may be made only by a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States

3803 (a) Upon the petition, if the court determines that removal of the property will not conflict with any restriction or limitation on the property or impair the right of the nonresident to the property

or the rights of creditors or claimants in this state, the court shall make an order granting to the nonresident fiduciary leave to remove the property of the nonresident to the place of residence unless good cause to the contrary is shown.

(b) The order is authority to the fiduciary to sue for and receive the property in his or her own name for the use and benefit of the nonresident.

(c) The order is a discharge of the executor, administrator, or other person in whose possession the property may be at the time the order is made and of the person obligated to pay a debt, perform an obligation, or issue a security to the nonresident or the estate of the nonresident, upon filing with the clerk of the court the receipt of the nonresident fiduciary for the property and transmitting a duplicate receipt, or a certified copy of the receipt, to the court, if any, from which the nonresident fiduciary received his or her appointment.

SEC 3 01. Section 2356 is added to the Probate Code, to read·

2356. (a) No ward or conservatee shall be placed in a mental health treatment facility under the provisions of this division against the will of the ward or conservatee. Involuntary civil mental health treatment for a ward or conservatee shall be obtained only pursuant to Chapter 2 (commencing with Section 5150) or Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Nothing in this subdivision precludes the placing of a ward in a state hospital under the provisions of Section 6000 of the Welfare and Institutions Code upon application of the guardian as provided in that section. The Director of Mental Health shall adopt and issue regulations defining "mental health treatment facility" for the purposes of this subdivision.

(b) No experimental drug as defined in Section 26668 of the Health and Safety Code may be prescribed for or administered to a ward or conservatee under the provisions of this division Such an experimental drug may be prescribed for or administered to a ward or conservatee only as provided in Article 4 (commencing with Section 26668) of Chapter 6 of Division 21 of the Health and Safety Code

(c) No convulsive treatment as defined in Section 5325 of the Welfare and Institutions Code may be performed on a ward or conservatee under the provisions of this division. Such convulsive treatment may be performed on a ward or conservatee only as provided in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code

(d) No ward or conservatee may be sterilized under the provisions of this division.

(e) The provisions of this chapter are subject to any valid and effective directive of the conservatee under Chapter 3 9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code (Natural Death Act).

SEC. 3.1 Section 2452 is added to the Probate Code, to read·

2452. (a) The guardian or conservator may endorse and cash or deposit any checks, warrants, or drafts payable to the ward or

conservatee which constitute property of the estate

(b) If it appears likely that the estate will satisfy the conditions of subdivision (b) of Section 2628, the court may order that the guardian or conservator be the designated payee for public assistance payments received pursuant to Part 3 (commencing with Section 11000) or Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code.

SEC. 3.2. Section 2628 is added to the Probate Code, to read·

2628. (a) As used in this section, "public benefit payments" means payments received or to be received under either or both of the following:

(1) Part 3 (commencing with Section 11000) of, Part 4 (commencing with Section 16000) of, or Part 5 (commencing with Section 17000) of, Division 9 of the Welfare and Institutions Code

(2) Subchapter II (commencing with Section 401) of, or Part A of Subchapter XVI (commencing with Section 1382) of, Chapter 7, Title 42, of the United States Code.

(b) The court may make an order that the guardian or conservator need not present the accounts otherwise required by this article so long as all of the following conditions are satisfied:

(1) The estate at the beginning and end of the accounting period for which an account is otherwise required consisted of property of a total net value of less than two thousand dollars ($2,000)

(2) The income of the estate for each month of the accounting period, exclusive of public benefit payments, was less than one hundred fifty dollars ($150).

(3) All income of the estate during the accounting period, if not retained, was spent for the benefit of the ward or conservatee

(c) Notwithstanding that the court has made an order under subdivision (b), the ward or conservatee or any interested person may petition the court for an order requiring the guardian or conservator to present an account as otherwise required by this article or the court on its own motion may make such an order. An order under this subdivision may be made ex parte or on such notice of hearing as the court in its discretion requires

(d) For any accounting period during which all of the conditions of subdivision (b) are not satisfied, the guardian or conservator shall present the account as otherwise required by this article.

SEC 4 (a) Except as provided in subdivisions (b) and (c), this act shall become operative on January 1, 1981

(b) Section 1491 of the Probate Code as enacted by this act shall become operative on the effective date of this act

(c) On and after the effective date of this act, the courts may adopt any rules necessary for this act to become operative on January 1, 1981

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 Legislature has determined that the savings in costs to be realized by the enactment of this act will offset any increased costs that might result from the enactment of this act Nothing in this

section affects the duty of the state to reimburse a local agency for "costs mandated by the state," as defined in Section 2207 of the Revenue and Taxation Code, by reason of the enactment of any statute other than this act.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill 326 are both chaptered and become effective on or before January 1, 1980, and this bill is chaptered after Assembly Bill 326, that Sections 1, 2, and 3 of Assembly Bill 326 shall remain in effect only until the operative date of this act and on such date Section 2452 of the Probate Code, as added by Section 3.1 of this act, shall become operative and Section 2452 as added by Section 3 of this act shall not become operative.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill 326 are both chaptered and become effective on or before January 1, 1980, and this bill is chaptered after Assembly Bill 326, that Sections 1, 2, and 3 of Assembly Bill 326 shall remain in effect only until the operative date of this act and on such date Section 2628 of the Probate Code, as added by Section 3.2 of this act, shall become operative and Section 2628 as added by Section 3 of this act shall not become operative.

SEC. 8 It is the intent of the Legislature, if this bill and Assembly Bill 1204 are both chaptered and this bill is chaptered after Assembly Bill 1204, that Section 2356 be added to the Probate Code in the form set forth in Section 3 01 of this act. Therefore, Section 3.01 of this act shall become operative only if this bill and Assembly Bill 1204 are both chaptered and this bill is chaptered last, in which case Section 3.01 of this act shall become operative on the operative date of this act and Section 2356 of the Probate Code, as contained in Section 3 of this act, shall not become operative

---

CHAPTER 727

An act to amend Section 61375 of the Food and Agricultural Code, relating to dairy products.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 61375 of the Food and Agricultural Code is amended to read:

61375 The giving of any milk, cream, dairy product, service, money, or article of any kind, except to a bona fide charity, for the purpose of securing or retaining the milk, cream, or dairy product business of any wholesale customer or consumer is an unfair practice

This section shall not prohibit a handler or distributor from issuing a premium, coupon, certificate or similar device to be redeemed by

the handler or distributor directly or through his agents in connection with the retail sale of any cheese except cottage cheese; provided, that all costs incurred in the issuance and redemption of such premiums, coupons, certificates, or similar devices shall be borne by the handler or distributor who issues such premium, coupon, certificate, or similar device.

CHAPTER 728

An act to amend, repeal, and add Sections 8382, 8384, 8386, and 8387 of, to add Section 8383.7 to, and to add and repeal Sections 8383 and 8383.5 of, the Fish and Game Code, relating to fish.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 8382 of the Fish and Game Code is amended to read:

8382. Barracuda and yellowtail not less than 28 inches in length may be taken with hook and line at any time.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 2. Section 8382 is added to the Fish and Game Code, to read:

8382 White seabass, barracuda, and yellowtail not less than 28 inches in length may be taken with hook and line at any time

This section shall become operative on January 1, 1983.

SEC 3 Section 8383 is added to the Fish and Game Code, to read.

8383 No white seabass may be taken for commercial purposes except under a revocable permit issued by the department and subject to the following conditions:

(a) Permits shall be issued to any currently licensed California commercial fisherman who is the owner, lessee, or operator of a commercial fishing vessel currently registered in California.

(b) Permits authorizing the commercial taking of white seabass and the use of a designated vessel for such purpose may be obtained from the department's marine resources regional office in San Diego, Long Beach, Monterey, or Menlo Park Such permits shall be valid until revoked There shall be no fee for such permits

(c) Any permit shall be revoked for a period of one year upon violation and subsequent conviction of this section by the holder thereof, or by any person acting under the holder's immediate direction and control

(d) White seabass may not be taken for commercial purposes between March 15th and June 15th, inclusive, between the United States-Mexico International Boundary and a line extending due west

(true) from Point Conception, except that not more than two fish per boat may be possessed and sold if taken incidentally in commercial fishing operations with gill nets or trammel nets. Any fish so taken shall not be transferred to any other vessel.

The restrictions specified in this section shall not apply to white seabass taken in waters lying south of the International Boundary Line between the United States and Mexico extended westerly into the Pacific Ocean. A current fishing permit issued by the Mexican Government may constitute valid evidence that white seabass were taken south of the international boundary.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 4. Section 8383.5 is added to the Fish and Game Code, to read:

8383.5. It is unlawful to take, possess, sell, or purchase any white seabass less than 28 inches in length, measured from the tip of the lower jaw to the end of the longest lobe of the tail.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC 4.5 Section 8383.7 is added to the Fish and Game Code, to read.

8383 7 Vessel operators who take white seabass for commercial purposes shall keep full and accurate records on forms furnished by the department.

SEC. 5. Section 8384 of the Fish and Game Code is amended to read:

8384. No barracuda or yellowtail less than 28 inches in length may be sold or purchased, except that not more than five barracuda and yellowtail per day may be possessed by the holder of a commercial fishing license for noncommercial use if taken incidentally in commercial fishing.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC 6. Section 8384 is added to the Fish and Game Code, to read:

8384. No white seabass, barracuda, or yellowtail less than 28 inches in length may be sold or purchased, except that no more than five of each fish per day may be possessed by the holder of a commercial fishing license for noncommercial use if taken incidentally in commercial fishing.

This section shall become operative on January 1, 1983.

SEC. 7. Section 8386 of the Fish and Game Code is amended to read.

8386 Barracuda and yellowtail shall be measured from the tip of the lower jaw to the end of the longest lobe of the tail.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is

chaptered before January 1, 1983, deletes or extends such date.

SEC. 8. Section 8386 is added to the Fish and Game Code, to read:

8386. White seabass, barracuda, and yellowtail shall be measured from the tip of the lower jaw to the end of the longest lobe of the tail.

This section shall become operative on January 1, 1983.

SEC. 9. Section 8387 of the Fish and Game Code is amended to read:

8387. It is unlawful from May 1st to August 31st, inclusive, for any one person to have in his possession on any boat, barge, or other vessel, more than 500 pounds of yellowtail. From May 1st to August 31st, inclusive, not more than 2,500 pounds of yellowtail may be possessed on any boat, barge, or other vessel at any one time.

This section does not apply to yellowtail taken in waters lying south of the international boundary line between the United States and Mexico extended westerly into the Pacific Ocean.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 10. Section 8387 is added to the Fish and Game Code, to read:

8387. It is unlawful from May 1st to August 31st, inclusive, for any one person to have in his possession on any boat, barge, or other vessel, more than 500 pounds of yellowtail, or 1,000 pounds of white seabass.

From May 1st to August 31st, inclusive, not more than 2,500 pounds of yellowtail nor more than 5,000 pounds of white seabass may be possessed on any boat, barge, or other vessel at any one time.

This section does not apply to yellowtail or white seabass taken in waters lying south of the international boundary line between the United States and Mexico extended westerly into the Pacific Ocean.

This section shall become operative on January 1, 1983.

SEC. 11. Sections 1 to 10, inclusive, of this act shall not be operative until the commission establishes a closed season on the taking for other than commercial purposes of white seabass between March 15th and June 15th, inclusive, between the United States-Mexico International Boundary and a line extending due west (true) from Point Conception.

CHAPTER 729

An act to amend Sections 17920, 17920.7, 17951, 17952, 17965, and 17966 of the Health and Safety Code, relating to building standards.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1 Section 17920 of the Health and Safety Code, as amended by Chapter 62 of the Statutes of 1979, is amended to read:

17920. As used in this part:

(a) "Building" means a structure subject to this part.

(b) "Commission" means the Commission of Housing and Community Development.

(c) "Department" means the Department of Housing and Community Development.

(d) "Enforcement" means diligent effort to secure compliance, including review of plans and permit applications, response to complaints, citation of violations, and other legal process. Except as otherwise provided in this part, "enforcement" may, but need not, include inspections of existing buildings on which no complaint or permit application has been filed, and effort to secure compliance as to such existing buildings.

(e) "Fire protection district" means any special district, or any other municipal or public corporation or district, which is authorized by law to provide fire protection and prevention services

(f) "Noise insulation" means the protection of persons within buildings from excessive noise, however generated, originating within or without such buildings.

(g) "Public entity" has the same meaning as defined in Section 811.2 of the Government Code.

(h) "Substandard building" means any building or any portion of a building including, but not limited to, any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exist any of the conditions listed in Chapter 10 of the Uniform Housing Code, latest edition, including inadequate structural resistance to horizontal forces, to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof

"Substandard building" includes a building not in compliance with Section 17920 7.

However, a condition which would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of such requirements in effect at the time of construction, alteration, or conversion

Any wiring, plumbing, or mechanical equipment, including vents, shall be deemed to have conformed to applicable law in effect at the time of installation and to have been maintained in good condition if currently in good and safe condition and working properly

SEC 1 5 Section 17920 of the Health and Safety Code, as amended by Chapter 62 of the Statutes of 1979, is amended to read:

17920 As used in this part

(a) "Building" means a structure subject to this part.

(b) "Commission" means the Commission of Housing and Community Development.

(c) "Department" means the Department of Housing and Community Development.

(d) "Enforcement" means diligent effort to secure compliance, including review of plans and permit applications, response to complaints, citation of violations, and other legal process. Except as otherwise provided in this part, "enforcement" may, but need not, include inspections of existing buildings on which no complaint or permit application has been filed, and effort to secure compliance as to such existing buildings.

(e) "Fire protection district" means any special district, or any other municipal or public corporation or district, which is authorized by law to provide fire protection and prevention services.

(f) "Noise insulation" means the protection of persons within buildings from excessive noise, however generated, originating within or without such buildings.

(g) "Nuisance" means any nuisance defined pursuant to Part 3 (commencing with Section 3479) of Division 4 of the Civil Code, or any other form of nuisance recognized at common law or in equity.

(h) "Public entity" has the same meaning as defined in Section 811.2 of the Government Code

SEC. 2 Section 17920.7 of the Health and Safety Code, as amended by Chapter 62 of the Statutes of 1979, is amended to read:

17920.7. (a) The commission shall adopt, amend, and repeal rules and regulations, and except as otherwise provided in this part, the department shall enforce such rules and regulations for the provision of structural fire safety and fire-resistant exits in existing multiple-story structures let for human habitation including, and limited to, apartment houses, hotels, and motels wherein rooms used for sleeping are let above the ground floor. The rules and regulations shall provide adequate safety to the occupants and the general public, and shall impose the same requirements as are contained in subdivisions (d), (e), (f), (g), (h), (i), (k), and (*l*) of Section 1313 of Chapter 13 of the appendix of the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials.

The commission, after consultation with the State Fire Marshal, may adopt reasonable exceptions to subdivisions (e) and (g) of Section 1313 to permit the continued use of existing stairs and to subdivision (*l*) of Section 1313 to permit equivalent protection in lieu of occupancy separations. However, such exceptions shall not impair occupant safety and shall be consistent with the legislative intent of this section.

Interior stairs and vertical openings need not be enclosed in two-story buildings

(b) Notwithstanding the provisions of subdivision (a), any city, county, or city and county may adopt standards for structural fire

safety and fire-resistant exits in structures subject to the provisions of this section, provided that such standards are substantially equivalent in fire safety to the standards adopted by the commission pursuant to subdivision (a). Each city, county, or city and county adopting such alternative standards shall submit a detailed statement, with supporting data, to the Director of Housing and Community Development demonstrating the equivalency of the alternate standards to the state standards. The Director of Housing and Community Development shall make a finding as to the equivalency of alternate local standards to state standards. It is the intention of the Legislature that this section and the rules and regulations adopted by the commission pursuant to this section shall not be more restrictive than the requirements for new construction contained in the Uniform Building Code, 1970 edition, as adopted by the International Conference of Building Officials.

(c) The provisions of this section shall not apply to any existing apartment house, hotel, or motel having floors, as measured from the top of the floor surface, used for human occupancy located more than 75 feet above the lowest floor level having building access which is subject to the provisions of Chapter 3 (commencing with Section 13210) of Part 2 of Division 12 relating to existing high-rise buildings.

(d) The enforcement agency shall make such inspections as are necessary to identify the structures within its jurisdiction in violation of the rules and regulations adopted by the commission pursuant to this section, and all structures subject to the provisions of this section shall be conformed to the requirements contained in such regulations on or before January 1, 1982.

SEC 3. Section 17951 of the Health and Safety Code is amended to read.

17951. (a) The governing body of any city or county may prescribe fees for permits, certificates, or other forms or documents required or authorized by this part or rules and regulations promulgated pursuant thereto.

(b) The governing body of any city or county or fire protection district may prescribe fees to defray the costs of enforcement required by this part to be carried out by local enforcement agencies.

(c) The amount of the fees prescribed pursuant to subdivisions (a) and (b) of this section shall not exceed the amount reasonably required to administer or process such permits, certificates, or other forms or documents, or to defray the costs of enforcement required by this part to be carried out by local enforcement agencies, and shall not be levied for general revenue purposes.

(d) The provisions of this part are not intended to prevent the use of any material, appliance, installation, device, arrangement, or method of construction not specifically prescribed by this part, provided any such alternate has been approved.

The building department of any city or county may approve any such alternate if it finds that the proposed design is satisfactory and that the material, appliance, installation, device, arrangement,

method, or work offered is, for the purpose intended, at least the equivalent of that prescribed in this part in performance, safety, and for the protection of life and health

The building department of any city or county shall require evidence that any material, appliance, installation, device, arrangement, or method of construction conforms to, or that the proposed alternate is at least equivalent to, the requirements of this part, and rules and regulations promulgated pursuant thereto and in order to substantiate claims for alternates, the building department of any city or county may require tests as proof of compliance to be made at the expense of the owner or his agent by an approved testing agency.

SEC. 4 Section 17952 of the Health and Safety Code, as amended by Chapter 62 of the Statutes of 1979, is amended to read·

17952. (a) In the event of nonenforcement of this part or the rules and regulations promulgated pursuant thereto, such provisions or rules and regulations shall be enforced by the department in any such city or county after the department has given written notice to the governing body of such city or county or fire protection district, as the case may be, of a violation of this part or the rules or regulations promulgated thereunder and the city or county has failed to initiate proceedings to secure correction of the violation within 30 days of the date of such notice The city or county or fire protection district may request a hearing before the commission pursuant to Section 17930 within said 30 days to show cause for nonenforcement. Enforcement by the department shall not be initiated until the decision of the commission, adverse to the city or county or fire protection district, is rendered.

(b) In the event that a city, or county, or city and county, or fire protection district fails to initiate proceedings to correct a specific violation of the rules and regulations or standards adopted pursuant to Section 17920.7 and in the event of enforcement of such rules and regulations or standards by the department pursuant to subdivision (a) of this section, the costs incurred by the department for such enforcement shall be borne by such city, or county, or city and county, or fire protection district. The department may assess fees to defray the costs of enforcement, thereby reducing the cost to be borne by the city, county, city and county, or fire protection district, but the department need not assess such fees and may not require the city, county, city and county, or fire protection district to assess fees to offset department costs

SEC 5. Section 17965 of the Health and Safety Code is amended to read

17965 Where there is no local enforcement agency charged with the enforcement of this part pursuant to Section 17964, and to the extent that enforcement responsibility is not assigned to a local enforcement agency pursuant to Section 17960, 17961, or 17961.5, the department shall enforce all the applicable provisions of this part and rules and regulations promulgated by the department thereunder, or

alternative standards adopted by a city or county pursuant to this part, pertaining to apartment houses, hotels, or dwellings.

SEC. 6. Section 17966 of the Health and Safety Code is amended to read:

17966. Cities or counties or fire protection districts may contract with the department for assistance by the department in the enforcement of the applicable provisions of this part and the rules and regulations promulgated thereunder within such cities or counties by the department. Such contracts shall contain provisions for the payment of the costs of such enforcement, or portions thereof, as may be determined by the department.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill 812 are both chaptered and become effective January 1, 1980, both bills amend Section 17920 of the Health and Safety Code, and this bill is chaptered after Senate Bill 812, that the amendments to Section 17920 proposed by both bills be given effect and incorporated in Section 17920 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 812 are both chaptered and become effective January 1, 1980, both amend Section 17920, and this bill is chaptered after Senate Bill 812, in which case Section 1 of this act shall not become operative.

SEC. 8. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is provided in this act to cover 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 and because revenue is provided in Section 17951 of the Health and Safety Code to cover these costs. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

CHAPTER 730

An act to amend Sections 9890.63, 9890.64, and 17919 of the Business and Professions Code, to amend Sections 40, 206.5, 1155, 1242, 1243, 4426, 4510, 4600, and 5128 of, to amend and renumber Section 2939½ of, to add Section 1243.5 to, and to repeal Section 32 of, the Civil Code, to amend Sections 153, 166, 170, 304, 372, 395.1, 602, 641, 732, 751.09, 751.21, 751.28, 872.010, 873.040, 873.690, 1018, 1700.3, 1704, 1704.1, 1913, and 1953.05 of the Code of Civil Procedure, to amend Sections 413 and 605 of the Corporations Code, to amend Sections 707.5 and 707.6 of the Elections Code, to amend Sections 764, 2057, 2058, 2073, 2095, 3110.1, 6403.5, 7605, 8452, and 11207 of the Financial Code, to amend Sections 6102, 6107, 6606, 6860, 21207,

21382, 21382.2, 27706, 39585, 56050, 69649, 70015, and 70053 of the Government Code, to amend Sections 416.1, 416.7, 416.8, 416.9, 416.95, 416.14, 416.16, 416.23, 1453, 2291.2, 7151.5, 24175, 33663, 33783, 34369, 37649, 37939, 44546, and 51375 of the Health and Safety Code, to amend Sections 1686, 1693, 10112, 12392, 12528, and 12629.47 of the Insurance Code, to amend Sections 1700.20a, 1700.20b, and 5408 of the Labor Code, to amend Sections 1046 and 1219 of the Military and Veterans Code, to amend Section 1074 of the Penal Code, to amend Sections 1, 22 1, 190.2, 202, 541.1, 585, 630, 650, 704.2, 704.4, 932, 1200, and 1233 of the Probate Code, to amend Section 22707 of the Public Utilities Code, to amend Sections 612, 982, 5140, and 18403 of the Revenue and Taxation Code, to amend Sections 5021 and 10011 of the Streets and Highways Code, to amend Section 20012 of the Vehicle Code, to amend Sections 9334, 9403, 20527.5, 20527.6, 20527.7, 20527.8, 20527.9, 20566, 39055, 39058, 41003, 50170, and 52228 of the Water Code, and to amend Sections 4120, 4426, 4460, 4508, 4535, 4576, 4586, 4642, 4655, 4700, 4701, 4725, 4800, 4801, 4802, 4825, 5350, 5352, 5357, 5360, 6000, 6502, 6504, 6506, 6508, 6717, 7104, 7254, 7275, 7279, 7280, 7281, 7282, 7284, 7285, 7286, 7287, 7288, 7289, 7290, 7305, 7514, 7518, 8006, 8012, 8102, 14124.71, 14124.73, 14124.79, 17007, 17403, and 19451 of, and to repeal Section 7254 of, the Welfare and Institutions Code, relating to guardianship, conservatorship, and other protective proceedings.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 9890.63 of the Business and Professions Code is amended to read:

9890.63. The bureau may issue to a person eligible therefor a certificate of convenience to conduct the business of a nurses' registry where the person licensed to conduct such nurses' registry has died or has had a conservator of the estate appointed by a court of competent jurisdiction. Such a certificate of convenience may be denominated as an estate certificate of convenience.

SEC. 2 Section 9890.64 of the Business and Professions Code is amended to read:

9890.64. To be eligible for an estate certificate of convenience, a person shall be one of the following:

(a) The executor or administrator of the estate of a deceased person who is licensed to conduct the business of a nurses' registry.

(b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of such deceased licensee.

(c) The conservator of the estate of a person licensed to conduct the business of a nurses' registry.

SEC. 2.5. Section 17919 of the Business and Professions Code is

amended to read:

17919. (a) A fictitious business name statement may be executed, filed, and published by the trustee in bankruptcy at any time after bankruptcy where a failure to comply with the provisions of this chapter would otherwise preclude the maintenance of an action to recover any sums due to the bankrupt or the partnership of which the bankrupt was a member.

(b) A fictitious business name statement may be executed, filed, and published by the conservator, executor, or administrator at any time after the appointment of a conservator for or death of any individual or partner where a failure to comply with the provisions of this chapter would otherwise preclude the maintenance of an action to recover any sums due the conservatee or deceased person or the partnership of which he was a member.

(c) A fictitious business name statement may be executed, filed, and published by an assignee or purchaser of the business at any time after the assignment or sale where a failure to comply with the provisions of this chapter would otherwise preclude the maintenance of an action to recover any sums due to the assignee or purchaser by reason of the assignment or sale.

(d) The fictitious business name statement referred to in this section shall be in substantially the same form as prescribed in Section 17913, except:

(1) The person or persons who were doing business under the fictitious business name shall be stated as such person or persons existed (i) immediately prior to the bankruptcy, conservatorship, or death or the assignment or sale of the business or (ii) at the time they ceased to do business under the fictitious business name, whichever is the earlier time.

(2) The statement shall include the following additional sentence: "This statement has been executed pursuant to Section 17919 of the Business and Professions Code."

(3) The person executing the statement shall (i) sign the statement on behalf of the person or persons formerly doing business under the fictitious business name, (ii) state his full name and the street address of his place of business or, if he has none, of his residence, and (iii) indicate whether he is a trustee in bankruptcy, conservator, executor, or administrator or assignee or purchaser of the business.

SEC. 3. Section 32 of the Civil Code is repealed.

SEC. 4. Section 40 of the Civil Code is amended to read:

40. Subject to Section 1871 of the Probate Code, and subject to Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, after his incapacity has been judicially determined a person of unsound mind can make no conveyance or other contract, nor delegate any power or waive any right, until his restoration to capacity. Subject to Sections 1873 to 1876, inclusive, of the Probate Code, the establishment of a conservatorship under Division 4 (commencing with Section 1400) of the Probate Code is

a judicial determination of the incapacity of the conservatee for the purposes of this section.

SEC. 5. Section 206.5 of the Civil Code is amended to read:

206.5. Any adult person may file in the superior court of the county where his or her parent resides a verified petition alleging that, while the petitioner was a minor, the petitioner was abandoned by the parent, and such abandonment continued for a period of two or more years prior to the time the petitioner reached the age of 18 years, and the parent during such period was physically and mentally able to support the petitioner, and praying the court to free the petitioner from the obligation otherwise imposed by law to support the parent. The clerk shall thereupon set the petition for hearing by the court and issue a citation directed to the parent and to the parent's conservator, if any, or, if the parent be deceased, to the personal representative of the parent's estate, setting forth the time and place of hearing so fixed by the clerk. The citation and a copy of the petition shall be personally served on the parent and conservator, if any, or, if the parent be deceased, on the personal representative of the parent's estate in the same manner as provided by law for the service of summons at least five days before the time of hearing. If, upon hearing, the court determines that the allegations in the petition are true it shall issue a decree granting the relief prayed for.

A person released from the obligation to support a parent as provided in this section shall be deemed to be so released with respect to any state law under which a child is required to pay for the support, care, maintenance, and the like of a parent, or to reimburse the state or a local public agency for furnishing such support, care, maintenance, or the like.

SEC. 6. Section 1155 of the Civil Code is amended to read:

1155. In this article, unless the context otherwise requires:

(a) An "adult" is a person who has attained the age of 18 years.

(b) A "bank" is any bank authorized to do business in this state.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means the superior court.

(e) "The custodial property" includes:

(1) All securities, money, life or endowment insurance policies, and annuity contracts under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this article.

(2) The income from the custodial property; and

(3) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender, or other disposition of such securities, money, life or endowment insurance

policies, and annuity contracts and income.

(f) A "custodian" is a person so designated in a manner prescribed in this article The term includes a successor custodian

(g) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state. An "insured financial institution" is one, where deposits, including a savings, share, certificate or deposit account, in which are, in whole or in part, insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or by a fund approved by the state.

(h) A "guardian" of a minor means the general guardian, guardian, tutor, or curator of his property or estate appointed or qualified by a court of this state or another state.

(i) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(j) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate

(k) "Life or endowment insurance policies and annuity contracts," means only life or endowment insurance policies and annuity contracts on the life of a minor or a member of the minor's family as defined in subdivision (*l*) of this section.

(*l*) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(m) A "minor" is a person who has not attained the age of 18 years

(n) A "savings and loan association" includes a federal savings and loan association, or a state-chartered savings and loan association or building and loan association doing business in this state; an "insured savings and loan association" is a savings and loan association which is an "insured institution" as defined in Title IV of the National Housing Act; and an "account in an insured savings and loan association" has the same meaning as in Section 1406 of the Probate Code

(o) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, account in an insured savings and loan association, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or

participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(p) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(q) A "trust company" means a trust company as defined by Sections 107 and 109 of the Financial Code.

SEC. 7. Section 1242 of the Civil Code is amended to read:

1242. (a) Except as provided in Section 1243.5, and except in the case of a married person's separate homestead, the homestead of a married person cannot be conveyed or encumbered unless:

(1) The instrument by which it is conveyed or encumbered is executed and acknowledged by both husband and wife; or

(2) Each spouse executes and acknowledges a separate instrument so conveying or encumbering the homestead in favor of the same party or the party's successor in interest.

(b) Notwithstanding subdivision (a), a conveyance of the homestead between husband and wife need be executed and acknowledged only by the spouse conveying; and, unless the one conveying expressly reserves his or her homestead rights, the spouse to whom the conveyance is made may convey or encumber the homestead property in the same manner and to the same extent as though no homestead had been declared.

SEC. 8. Section 1243 of the Civil Code is amended to read:

1243. Except as provided in Section 1243.5, a homestead can be abandoned only by:

1. A declaration of abandonment executed and acknowledged by the husband and wife, jointly or by separate instruments, if the claimant is married.

2. A declaration of abandonment or a conveyance by the claimant if unmarried.

3. A declaration of abandonment or a conveyance by the grantee named in a conveyance by which one spouse conveys the homestead to the other spouse without expressly reserving his or her homestead rights.

4. A conveyance or conveyances by both spouses as provided in Section 1242.

5. A declaration of abandonment or a conveyance by the claimant alone in the case of a married person's separate homestead.

SEC. 9. Section 1243.5 is added to the Civil Code, to read:

1243.5. Where one or both spouses either has a conservator of the estate or lacks legal capacity for a transaction described in Section 1242 or 1243, the procedure for conveying or encumbering or

abandoning the homestead of a married person (other than a married person's separate homestead) is that prescribed in Part 6 (commencing with Section 3000) of Division 4 of the Probate Code.

SEC. 10. Section 2939¼ of the Civil Code is amended and renumbered to read:

2939.5. Foreign executors, administrators and guardians may satisfy mortgages upon the records of any county in this state, upon producing and recording in the office of the county recorder of the county in which such mortgage is recorded, a duly certified and authenticated copy of their letters testamentary, or of administration or of guardianship, and which certificate or authentication shall also recite that said letters have not been revoked. For the purposes of this section, "guardian" includes a foreign conservator, committee, or comparable fiduciary.

SEC. 11. Section 4426 of the Civil Code is amended to read:

4426. A proceeding to obtain a judgment of nullity of marriage, for causes set forth in Section 4425, must be commenced within the periods and by the parties, as follows:

(a) For causes mentioned in subdivision (a): by the party to the marriage who was married under the age of legal consent, within four years after arriving at the age of consent; or by a parent, guardian, conservator, or other person having charge of such nonaged male or female, at any time before such married minor has arrived at the age of legal consent.

(b) For causes mentioned in subdivision (b): by either party during the life of the other, or by such former husband or wife.

(c) For causes mentioned in subdivision (c): by the party injured, or relative or conservator of the party of unsound mind, at any time before the death of either party.

(d) For causes mentioned in subdivision (d): by the party injured, within four years after the discovery of the facts constituting the fraud.

(e) For causes mentioned in subdivision (e): by the injured party, within four years after the marriage.

(f) For causes mentioned in subdivision (f): by the injured party, within four years after the marriage.

SEC 12. Section 4510 of the Civil Code is amended to read:

4510. (a) A marriage may be dissolved on the grounds of incurable insanity only upon proof, including competent medical or psychiatric testimony, that the insane spouse was at the time the petition was filed, and remains, incurably insane.

(b) No decree granted on this ground shall relieve a spouse from any obligation imposed by law as a result of the marriage for the support of the spouse who is incurably insane, and the court may make such order for support, or require a bond therefor, as the circumstances require.

(c) If the insane spouse has a guardian or conservator, other than the spouse bringing the action, the petition and summons shall be served upon the insane spouse and the guardian or conservator. The

guardian or conservator shall defend and protect the interests of the insane spouse. If the insane spouse has no guardian or conservator, or if the spouse bringing the action is the guardian or conservator of the insane spouse, the court shall appoint a guardian ad litem, who may be the district attorney or the county counsel, if any, to defend and protect the interests of the insane spouse If a district attorney or county counsel is appointed guardian ad litem pursuant to this subdivision, the successor in the office of district attorney or county counsel, as the case may be, succeeds as guardian ad litem, without further action by the court or parties.

(d) As used in subdivision (c), "guardian or conservator" means:

(1) With respect to the issue of the dissolution of the marriage relationship, the guardian or conservator of the person.

(2) With respect to support and property division issues, the guardian or conservator of the estate.

SEC. 13. Section 4600 of the Civil Code is amended to read:

4600. (a) In any proceeding where there is at issue the custody of a minor child, the court may, during the pendency of the proceeding or at any time thereafter, make such order for the custody of the child during minority as may seem necessary or proper. If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an award of custody or modification thereof In determining the person or persons to whom custody should be awarded under paragraph (2) or (3) of subdivision (b), the court shall consider and give due weight to a nomination of a guardian of the person of the child by a parent under Article 1 (commencing with Section 1500) of Chapter 1 of Part 2 of Division 4 of the Probate Code.

(b) Custody should be awarded in the following order of preference:

(1) To either parent, or to both parents jointly pursuant to Section 4600.5, according to the best interests of the child; provided, however, that in making such an award to either parent, the court shall not prefer a parent as custodian because of that parent's sex.

(2) To the person or persons in whose home the child has been living in a wholesome and stable environment.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child

(c) Before the court makes any order awarding custody to a person or persons other than a parent, without the consent of the parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interests of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue

SEC. 13.1. Section 4600 of the Civil Code is amended to read:

4600. (a) In any proceeding where there is at issue the custody of a minor child, the court may, during the pendency of the proceeding or at any time thereafter, make such order for the custody of the child during minority as may seem necessary or proper. If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an award of custody or modification thereof. In determining the person or persons to whom custody should be awarded under paragraph (3) of subdivision (b), the court shall consider and give due weight to a nomination of a guardian of the person of the child by a parent under Article 1 (commencing with Section 1500) of Chapter 1 of Part 2 of Division 4 of the Probate Code.

(b) Custody should be awarded in the following order of preference according to the best interests of the child:

(1) To both parents in joint physical and legal custody or to both parents in joint legal custody with physical custody awarded to one parent, pursuant to Section 4600.5.

(2) To either parent if a preponderance of the evidence establishes that it is in the best interest of the child that custody should be awarded to one parent or if the parents agree that one parent shall assume custody; provided, however, that in making such an award to either parent, the court shall not prefer a parent as custodian because of that parent's sex.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child.

(c) Before the court makes any order awarding custody to a person or persons other than a parent, without the consent of the parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interests of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue.

SEC. 14. Section 5128 of the Civil Code is amended to read:

5128. (a) Where one or both of the spouses either has a conservator of the estate or lacks legal capacity to manage and control community property, the procedure for management and control (which includes disposition) of the community property is that prescribed in Part 6 (commencing with Section 3000) of Division 4 of the Probate Code.

(b) Where one or both spouses either has a conservator of the estate or lacks legal capacity to give consent to a gift of community personal property or a disposition of community personal property without a valuable consideration as required by Section 5125 or to a sale, conveyance, or encumbrance of community personal property

for which a consent is required by Section 5125, the procedure for such gift, disposition, sale, conveyance, or encumbrance is that prescribed in Part 6 (commencing with Section 3000) of Division 4 of the Probate Code.

(c) Where one or both spouses either has a conservator of the estate or lacks legal capacity to join in executing a lease, sale, conveyance, or encumbrance of community real property or any interest therein as required by Section 5127, the procedure for such lease, sale, conveyance, or encumbrance is that prescribed in Part 6 (commencing with Section 3000) of Division 4 of the Probate Code.

SEC. 15. Section 153 of the Code of Civil Procedure is amended to read:

153. Except as otherwise expressly provided by law, the seal of a court need not be affixed to any proceeding therein, or to any document, except:

1. To a writ;

2. To a summons;

3. To a warrant of arrest;

4. To the certificate of probate of a will or of the appointment of an executor, administrator, guardian, or conservator.

SEC. 16. Section 166 of the Code of Civil Procedure is amended to read:

166. The judge or judges of the superior, municipal and justice courts may, at chambers, in the matters within the jurisdiction of their respective courts:

1. Grant all orders and writs which are usually granted in the first instance upon an ex parte application, and may, at chambers, hear and dispose of such orders and writs; and may also, at chambers, appoint appraisers, receive inventories and accounts to be filed, suspend the powers of executors, administrators, guardians, or conservators in the cases allowed by law, grant special letters of administration and letters of temporary guardianship or conservatorship, approve claims and bonds, and direct the issuance from the court of all writs and process necessary in the exercise of their powers in matters of probate.

2. Hear and determine all motions made pursuant to Section 657 or 663.

3. Hear and determine all uncontested actions, proceedings, demurrers, motions, petitions, applications, and other matters pending before the court other than actions for dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage, and except also applications for confirmation of sale of real property in probate proceedings.

A judge, may, out of court, anywhere in the state, exercise all the powers and perform all the functions and duties conferred upon a judge as contradistinguished from the court, or which a judge may exercise or perform at chambers.

SEC. 17 Section 170 of the Code of Civil Procedure is amended to read:

170. No justice or judge shall sit or act as such in any action or proceeding:

1. To which he is a party; or in which he is interested other than as a holder or owner of any capital stock of a corporation, or of any bond, note or other security issued by a corporation;

2. In which he is interested as a holder or owner of any capital stock of a corporation, or of any bond, note or other security issued by a corporation;

3. When he is related to either party, or to an officer of a corporation, which is a party, or to an attorney, counsel, or agent of either party, by consanguinity or affinity within the third degree computed according to the rules of law, or when he is indebted, through money borrowed as a loan, to either party, or to an attorney, counsel or partner of either party, or when he is so indebted to an officer of a corporation or unincorporated association which is a party; provided, however, that if the parties appearing in the action and not then in default, or the petitioner in any probate proceeding, or the executor, or administrator of the estate, or the guardian or conservator, or the commissioner, or the referee, or the attorney for any of the above named, or the party or his attorney in all other or special proceedings, shall sign and file in the action or matter, a stipulation in writing waiving the disqualification mentioned in this subdivision or in subdivision 2 or 4 hereof, the judge or court may proceed with the trial or hearing and the performance of all other duties connected therewith with the same legal effect as if no such disqualification existed;

4. When, in the action or proceeding, or in any previous action or proceeding involving any of the same issues, he has been attorney or counsel for any party; or when he has given advice to any party upon any matter involved in the action or proceeding; or when he has been retained or employed as attorney or counsel for any party within two years prior to the commencement of the action or proceeding;

5. When it is made to appear probable that, by reason of bias or prejudice of such justice or judge a fair and impartial trial cannot be had before him

Whenever a judge or justice shall have knowledge of any fact or facts, which, under the provisions of this section, disqualify him to sit or act as such in any action or proceeding pending before him, it shall be his duty to declare the same in open court and cause a memorandum thereof to be entered in the minutes or docket. It shall thereupon be the duty of the clerk, or the judge if there be no clerk, to transmit forthwith a copy of such memorandum to each party, or his attorney, who shall have appeared in such action or proceeding, except such party or parties as shall be present in person or by attorney when the declaration shall be made.

Whenever a judge who shall be disqualified under the provisions of this section, to sit or act as such in any action or proceeding pending before him, neglects or fails to declare his disqualification

in the manner hereinbefore provided, any party to such action or proceeding who has appeared therein may present to the court and file with the clerk a written statement objecting to the hearing of such matter or the trial of any issue of fact or law in such action or proceeding before such judge, and setting forth the fact or facts constituting the ground of the disqualification of such judge. Copies of such written statement shall forthwith be served by the presenting party on each party, or his attorney, who has appeared in the action or proceeding and on the judge alleged in such statement to be disqualified.

Within 10 days after the filing of any such statement, or 10 days after the service of such statement as above provided, whichever is later in time, the judge alleged therein to be disqualified may file with the clerk his consent in writing that the action or proceeding be tried before another judge, or may file with the clerk his written answer admitting or denying any or all of the allegations contained in such statement and setting forth any additional fact or facts material or relevant to the question of his disqualifications. The clerk shall forthwith transmit a copy of the judge's consent or answer to each party or his attorney who shall have appeared in such action or proceeding. Every such statement and every such answer shall be verified by oath in the manner prescribed by Section 446 for the verification of pleadings. The statement of a party objecting to the judge on the ground of his disqualification, shall be presented at the earliest practicable opportunity, after his appearance and discovery of the facts constituting the ground of the judge's disqualification, and in any event before the commencement of the hearing of any issue of fact in the action or proceeding before such judge.

No judge who shall deny his disqualification, shall hear or pass upon the question of his own disqualification; but in every such case, the question of the judge's disqualification shall be heard and determined by some other judge agreed upon by the parties who shall have appeared in the action or proceeding, or, in the event of their failing to agree, by a judge assigned to act by the Chairman of the Judicial Council, and, if the parties fail to agree upon a judge to determine the question of the disqualification, within five days after the expiration of the time allowed herein for the judge to answer, it shall be the duty of the clerk then to notify the Chairman of the Judicial Council of that fact; and it shall be the duty of the Chairman of the Judicial Council forthwith, upon receipt of notice from the clerk, to assign some other judge, not disqualified, to hear and determine the question.

If such judge admits his disqualification, or files his written consent that the action or proceeding be tried before another judge, or fails to file his answer within the 10 days herein allowed, or if it shall be determined after hearing that he is disqualified, the action or proceeding shall be heard and determined by another judge or justice not disqualified, who shall be agreed upon by the parties, or, in the event of their failing to agree, assigned by the Chairman of the

Judicial Council; provided, however, that when there are two or more judges of the same court, one of whom is disqualified, the action or proceeding may be transferred to a judge who is not disqualified.

A judge who is disqualified may, notwithstanding his disqualification, request another judge, who has been agreed upon by the parties, to sit and act in his place.

6. In an action or proceeding brought in any court by or against the Reclamation Board of the State of California, or any irrigation, reclamation, levee, swampland or drainage district, or trustee, officer or employee thereof, affecting or relating to any real property, or an easement or right-of-way, levee, embankment, canal, or any work provided for or approved by the Reclamation Board of the State of California, a judge of the superior court of the county, or a judge of the municipal court or justice court of the judicial district, in which such real property, or any part thereof, or such easement or right-of-way, levee, embankment, canal or work, or any part thereof is situated shall be disqualified to sit or act, and such action shall be heard and tried by some other judge assigned to sit therein by the Chairman of the Judicial Council, unless the parties to the action shall sign and file in the action or proceeding a stipulation in writing, waiving the disqualification in this subdivision of this section provided, in which case such judge may proceed with the trial or hearing with the same legal effect as if no such legal disqualification existed If, however, the parties to the action shall sign and file a stipulation, agreeing upon some other judge to sit or act in place of the judge disqualified under the provisions of this subdivision, the judge agreed upon shall be called by the judge so disqualified to hear and try such action or proceeding; provided, that nothing herein contained shall be construed as preventing the judge of the superior court of such county, or of the municipal or justice court of such judicial district, from issuing a temporary injunction or restraining order, which shall, if granted, remain in force until vacated or modified by the judge designated as herein provided.

7. When, by reason of permanent or temporary physical impairment, he is unable to properly perceive the evidence or properly conduct the proceedings

8. Notwithstanding anything contained in subdivision 6 of this section, a judge of the superior court or a judge of the municipal court or justice court of the judicial district, in which any real property is located, shall not be disqualified to hear or determine any matter in which the opposing party shall have failed to appear within the time allowed by law, or as to such of the opposing parties who shall have failed to appear within the time allowed by law, and as to which matter or parties the same shall constitute purely a default hearing, provided, that nothing in this section contained shall be construed as preventing the judge of the superior court of such county from issuing an order for possession prior to judgment in proceedings in eminent domain.

Nothing in this section contained shall affect a party's right to a

change of the place of trial in the cases provided for in Title 4 (commencing with Section 392) of Part 2 of this code.

SEC. 18. Section 304 of the Code of Civil Procedure is amended to read:

304. The provisions of this chapter apply to the bonds of receivers, executors, and administrators.

SEC. 19. Section 372 of the Code of Civil Procedure is amended to read:

372. When a minor, an incompetent person, or a person for whom a conservator has been appointed is a party, such person shall appear either by a guardian or conservator of the estate or by a guardian ad litem appointed by the court in which the action or proceeding is pending, or by a judge thereof, in each case. A guardian ad litem may be appointed in any case when it is deemed by the court in which the action or proceeding is prosecuted, or by a judge thereof, expedient to appoint a guardian ad litem to represent the minor, incompetent person, or person for whom a conservator has been appointed, notwithstanding that such person may have a guardian or conservator of the estate and may have appeared by the guardian or conservator of the estate. The guardian or conservator of the estate or guardian ad litem so appearing for any minor, incompetent person, or person for whom a conservator has been appointed shall have power, with the approval of the court in which the action or proceeding is pending, to compromise the same, to agree to the order or judgment to be entered therein for or against the ward or conservatee, and to satisfy any judgment or order in favor of the ward or conservatee or release or discharge any claim of the ward or conservatee pursuant to such compromise. Any money or other property to be paid or delivered pursuant to the order or judgment for the benefit of a minor, incompetent person, or person for whom a conservator has been appointed shall be paid and delivered as provided in Chapter 4 (commencing with Section 3600) of Part 7 of Division 4 of the Probate Code.

Where reference is made in this section to "incompetent person," such reference shall be deemed to include "a person for whom a conservator may be appointed."

Nothing in this section or in any other provision of this code, the Probate Code, or the Civil Code is intended by the Legislature to prohibit a minor from exercising an intelligent and knowing waiver of his constitutional rights in any proceedings under the Juvenile Court Law, Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code.

SEC. 20. Section 395.1 of the Code of Civil Procedure is amended to read:

395.1. When a defendant is sued in an official capacity as executor, administrator, guardian, conservator, or trustee on a claim for the payment of money or for the recovery of personal property, the county which has jurisdiction of the estate which the defendant represents shall be the proper county for the trial of the action.

SEC. 21. Section 602 of the Code of Civil Procedure is amended to read:

602. Challenges for cause may be taken on one or more of the following grounds:

(1) A want of any of the qualifications prescribed by this code to render a person competent as a juror.

(2) The existence of any incapacity which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the challenging party.

(3) Consanguinity or affinity within the fourth degree to any party or to an officer of a corporation which is a party.

(4) Standing in the relation of, or being the parent, spouse, or child of one who stands in the relation of, guardian and ward, conservator and conservatee, master and servant, employer and clerk, or principal and agent, or debtor and creditor, to either party or to an officer of a corporation which is a party, or being a member of the family of either party; or a partner in business with either party; or surety on any bond or obligation for either party, or being the holder of bonds or shares of capital stock of a corporation which is a party; or having stood within one year previous to the filing of the complaint in the action in the relation of attorney and client with either party or with the attorney for either party. A depositor of a bank or a holder of a savings account in a savings and loan association shall not be deemed a creditor of such bank or savings and loan association for the purpose of this subsection solely by reason of his being such a depositor or account holder.

(5) Having served as a juror in a civil action or been a witness on a previous trial between the same parties, for the same cause of action; or having served as a juror within one year previously in any civil action or proceeding in which either party was plaintiff or defendant.

(6) Interest on the part of the juror in the event of the action, or in the main question involved in the action, except his interest as a member or citizen or taxpayer of a county, city and county, incorporated city or town, or other political subdivision of a county, or municipal water district.

(7) Having an unqualified opinion or belief as to the merits of the action founded upon knowledge of its material facts or of some of them.

(8) The existence of a state of mind in the juror evincing enmity against or bias to either party.

(9) That he is a party to an action pending in the court for which he is drawn and which action is set for trial before the panel of which he is a member.

SEC. 22. Section 641 of the Code of Civil Procedure is amended to read:

641. A party may object to the appointment of any person as referee, on one or more of the following grounds:

1. A want of any of the qualifications prescribed by statute to render a person competent as a juror;

2 Consanguinity or affinity, within the third degree, to either party, or to an officer of a corporation which is a party, or to any judge of the court in which the appointment shall be made;

3. Standing in the relation of guardian and ward, conservator and conservatee, master and servant, employer and clerk, or principal and agent, to either party; or being a member of the family of either party; or a partner in business with either party; or security on any bond or obligation for either party;

4. Having served as a juror or been a witness on any trial between the same parties for the same cause of action;

5. Interest on the part of such person in the event of the action, or in the main question involved in the action;

6 Having formed or expressed an unqualified opinion or belief as to the merits of the action;

7. The existence of a state of mind in such person evincing enmity against or bias to either party.

SEC 23. Section 732 of the Code of Civil Procedure is amended to read·

732. If a guardian, conservator, tenant for life or years, joint tenant, or tenant in common of real property, commit waste thereon, any person aggrieved by the waste may bring an action against him therefor, in which action there may be judgment for treble damages.

SEC. 24. Section 751.09 of the Code of Civil Procedure is amended to read:

751.09 At the time of filing the complaint the plaintiff shall file with it his affidavit fully and explicitly setting forth and showing:

(a) The character of the plaintiff's estate, right, title, interest, or claim in, and possession of, the property, the period it has existed, and from whom obtained.

(b) Whether or not the plaintiff has ever made any conveyance of all or any part of the property, or any interest therein, and if so when and to whom, and a statement of any and all subsisting mortgages, deeds of trust, and other liens thereon

(c) That the plaintiff does not know and has never been informed of any other person who claims or who may claim any interest in or lien upon all or any part of the property adversely to the plaintiff, or if the plaintiff does know or has been informed of any such person, the name and address of such person.

If the plaintiff is unable to state any of the required matters, the plaintiff shall set forth and show fully and explicitly the reasons for such inability. Such affidavit shall constitute a part of the judgment-roll. If the plaintiff is a corporation, the affidavit shall be made by an officer thereof. If the plaintiff is a person under guardianship or conservatorship, the affidavit shall be made by the guardian or conservator.

SEC. 25 Section 751 21 of the Code of Civil Procedure is amended to read·

751.21. An executor, administrator, guardian, conservator, or other person holding the possession of property in the right of another may maintain as plaintiff, and may appear and defend in, any action provided for by this chapter.

SEC. 26. Section 751.28 of the Code of Civil Procedure is amended to read:

751.28. An executor, administrator, guardian, conservator, or other person holding the possession of property in the right of another, may make, sign, verify, and file for record the notice and affidavit provided for in this chapter on behalf of the estate or interest which he represents.

SEC. 27. Section 872.010 of the Code of Civil Procedure is amended to read:

872.010. As used in this title:

(a) "Action" means an action for partition under this title.

(b) "Lien" means a mortgage, deed of trust, or other security interest in property whether arising from contract, statute, common law, or equity.

(c) "Property" includes real and personal property.

(d) "Remainder" includes reversion, reversionary interest, right of entry, and executory interest.

(e) "Title report" includes a preliminary report, guarantee, binder, or policy of title insurance.

SEC. 28. Section 873.040 of the Code of Civil Procedure is amended to read:

873.040. (a) The court shall appoint as referee under this title any person or persons to whose appointment all parties have consented.

(b) In the case of a minor party or a party for whom a conservator of the estate has been appointed, the guardian or conservator of the estate of the party may so consent.

SEC. 29. Section 873.690 of the Code of Civil Procedure is amended to read:

873.690. (a) The following persons shall not purchase property sold in the action directly or indirectly:

(1) The referee.

(2) The attorney of a party.

(3) The guardian or conservator of a party, unless for the benefit of the ward or conservatee.

(b) All sales contrary to this section are void except that a sale to a bona fide purchaser following a sale contrary to this section shall not be disturbed.

SEC. 30. Section 1018 of the Code of Civil Procedure is amended to read:

1018. (a) Every foreign corporation and nonresident individual who either incurs any liability to the State of California under any tax law of the state or who is a guardian, conservator, receiver, or fiduciary of any individual, estate or trust, or corporation, or a member of a partnership, incurring any such liability, shall file with

the Secretary of State a designation of a natural person, stating his residence or business address in this state, as its or his agent for the purpose of service of process in any action to enforce such liability in the courts of this state, and the delivery to such agent of a copy of any process in any such action shall constitute valid service on such foreign corporation, nonresident, individual, fiduciary or partner. A copy of such designation, certified by the Secretary of State, is sufficient evidence of the appointment of such agent for service of process. Such foreign corporation or nonresident individual shall file with the Secretary of State notice of any change of address of the person thus designated, and may revoke any such designation by filing notice of the revocation thereof with the Secretary of State.

(b) Every resident individual who incurs any liability to the State of California under any tax law of the state or who is a guardian, conservator, receiver, or fiduciary of any individual, estate or trust, or corporation, or member of a partnership, incurring any such liability, who hereafter leaves the state for a period of longer than one year, or is hereafter absent from the state for a period longer than one year, and who is or was a resident at the time of leaving the state, shall file with the Secretary of State a designation of a natural person, stating his residence or business address in this state, as its or his agent for the purpose of service of process in any action to enforce such liability in the courts of this state, and the delivery to such agent of a copy of any process in any such action shall constitute valid service on such individual. A copy of such designation, certified by the Secretary of State, is sufficient evidence of the appointment of such agent for service of process. Such individual shall file with the Secretary of State notice of any change of address of the person thus designated, and may revoke any such designation by filing notice of the revocation thereof with the Secretary of State.

(c) In the event that no agent designated in accordance with the provisions of this section can be found with due diligence at the address given, or if the agent so designated be no longer authorized to act, or if no person has been designated, and if personal service of process upon the corporation or individual within this state cannot be made with the exercise of due diligence, then service shall be made by delivery of the process to the Secretary of State or to an assistant or deputy secretary of state, and such service shall be a sufficient service on said corporation or individual subject to compliance with subsection (d). The making and filing of an affidavit or affidavits in the action or proceeding showing what effort was made or action taken to comply with the above requirements of due diligence and the making of an order of the court in which said action or proceeding is pending finding that due diligence has been exercised and directing service of summons as herein provided, shall be sufficient proof of the fact of such exercise of due diligence.

(d) In the event of service of process under subdivision (c), there shall be delivered to the Secretary of State by the attorney representing the state a statement of the address of the corporation

or individual to which or to whom notice, and a copy of the summons and complaint, shall be sent. Upon the receipt of such summons and complaint the Secretary of State forthwith shall give notice to the corporation or individual by telegraph, charges prepaid, to the address given in the statement delivered to the Secretary of State at the time of such service, of the service of the summons and complaint and shall forward to such corporation or individual by registered mail, a copy of such summons and complaint. Personal service of such notice and a copy of such summons and complaint upon the corporation or individual wherever found outside this state shall be the equivalent of said mailing.

(e) Proof of compliance with subdivision (d) shall be made in the event of service by mail by certificate of the Secretary of State, under his official seal, showing said mailing, together with the defendant's return receipt. Such certificate and receipt shall be appended to the original summons which shall be filed with the court from out of which such summons issued within such time as the court may allow for the return of such summons. In the event of personal service outside this state such compliance may be proved by the return of any duly constituted public officer, qualified to serve like process of and in the state or jurisdiction where the defendant is found, showing such service to have been made. Such return shall be appended to the original summons which shall be filed as aforesaid.

(f) Service made under this section shall have the same legal force and validity as if service had been made personally in this state; provided, however, that the defendant may appear and answer the complaint within 30 days from the date of service.

(g) The court in which the action is pending may order such continuances as may be necessary to afford the defendant reasonable opportunity to defend the action.

(h) The Secretary of State shall keep a record of all process served upon him and shall record therein the time of such service and his action in respect thereto.

(i) If any clause, sentence, paragraph, or part of this section shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this section, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SEC. 31. Section 1700.3 of the Code of Civil Procedure is amended to read:

1700.3. "Fiduciary" includes guardians, conservators, executors, administrators, and trustees of trusts, testamentary or created inter vivos.

SEC. 32. Section 1704 of the Code of Civil Procedure is amended to read:

1704. In all cases where notice of hearing of a petition for substitution of fiduciaries, or suspension or delegation of the functions of a fiduciary or consultant, or for resumption of these

functions is required to be given pursuant to this chapter, the clerk shall set the petition for hearing and shall post notice of the time and place of hearing in three public places in the county at least 10 days before the time set for the hearing.

At least 10 days before the time set for hearing, the petitioner shall cause further notice thereof to be given as follows:

(a) Notice shall be mailed, except as prohibited by federal statute or governmental order or regulation:

(1) To each fiduciary, including consultants if any, who does not join in the petition.

(2) In case of probate estates, to the persons enumerated in the second paragraph of Section 1200 of the Probate Code, in the manner therein provided.

(3) In case of trusts, to each person receiving benefits under the trust, and to each person presumptively entitled in remainder, insofar as the addresses and identity of such persons are known to the petitioner or to the trustee. In the case of revocable or terminable trusts, notice shall be sufficient if mailed to the person having such right of revocation or termination.

(b) In the case of guardianships or conservatorships, notice shall be given in the manner required by law upon settlement of an account of a guardian or conservator.

(c) In addition to the notice specified in subdivisions (a) and (b), in cases where the fiduciary or consultant engaged in war service is not the petitioner or where his written consent to the relief prayed for is not filed, notice served either personally or by mail, telegraph or cable shall be given to such fiduciary or consultant, unless the court finds that such notice is impracticable because his whereabouts are unknown and cannot reasonably be ascertained, or because of impossibility or difficulty of communicating with him.

(d) In all cases mentioned in this section, such additional notice, if any, shall be given to parties in interest as the court may direct.

SEC. 33. Section 1704.1 of the Code of Civil Procedure is amended to read:

1704.1. In all cases where notice is required to be given the court shall inquire as to whether proper notice has been given, and a finding as to the giving of due notice contained in the court's order when final shall be conclusive on the fiduciary or consultant, as the case may be, and on all persons interested in the estate, trust, guardianship, or conservatorship, unless modified or vacated on equitable grounds by a court of competent jurisdiction.

SEC. 34. Section 1913 of the Code of Civil Procedure is amended to read:

1913. The effect of a judicial record of a sister state is the same in this state as in the state where it was made, except that it can only be enforced here by an action or special proceeding, and except, also, that the authority of a guardian, conservator, or committee, or of an executor or administrator, does not extend beyond the jurisdiction of the government under which such person was invested with

authority.

SEC 35. Section 1953.05 of the Code of Civil Procedure is amended to read:

1953.05 The record in all cases where the proceeding is in rem, including probate, guardianship, conservatorship, and insolvency proceedings, may be supplied in like manner upon like notice to all persons who have appeared therein, and upon notice by publication or postings for not less than 10 days, as the court may order, to all persons who have not appeared. When restored the record shall have the same effect as the original upon all persons who have been personally served with notice of the application, and as to all other persons it shall be prima facie evidence of the contents of the original

SEC. 36. Section 413 of the Corporations Code is amended to read:

413. A person holding shares as pledgee, executor, administrator, guardian, conservator, trustee, receiver or in any representative or fiduciary capacity is not personally liable for any unpaid balance of the subscription price of the shares because the shares are so held but the estate and funds in the hands of such fiduciary or representative are liable and the shares are subject to sale therefor

SEC. 37 Section 605 of the Corporations Code is amended to read·

605 (a) For the purpose of determining whether a corporation has outstanding shares held of record by 100 or more persons, shares shall be deemed to be "held of record" by each person who is identified as the owner of such shares on the record of shareholders maintained by or on behalf of the corporation, subject to the following.

(1) In any case where the record of shareholders has not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such record if it had been maintained in accordance with accepted practice shall be included as a holder of record.

(2) Shares identified as held of record by a corporation, a partnership, a trust, whether or not the trustees are named, or other organization shall be included as so held by one person

(3) Shares identified as held of record by one or more persons as trustees, executors, guardians, conservators, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person

(4) Shares held by two or more persons as coowners shall be included as held by one person.

(5) Shares registered in substantially similar names, where the corporation (or other person soliciting proxies) has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person

(b) Notwithstanding subdivision (a).

(1) Shares held, to the knowledge of the corporation (or other

person soliciting proxies), subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the recordholders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in such securities; provided, however, that the corporation (or other person soliciting proxies) may rely in good faith on such information as is received in response to its request from a nonaffiliated issuer of the certificates or evidences of interest

(2) If the corporation (or other person soliciting proxies) knows or has reason to know that the form of holding shares of record is used primarily to circumvent the provisions of this section, the beneficial owners of such shares shall be deemed to be the record owners thereof.

SEC. 38. Section 707.5 of the Elections Code is amended to read:

707.5. (a) A person shall be deemed mentally incompetent, and therefore disqualified from voting, if a conservator for the person or the person and estate is appointed pursuant to Division 4 (commencing with Section 1400) of the Probate Code, or, if a conservator for the person or the person and estate is appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and, during the course of any such proceeding the court finds that the person is not capable of completing an affidavit of voter registration in accordance with Section 500.

(b) If any such proceeding under the Welfare and Institutions Code is heard by a jury, the jury shall unanimously find that the person is not capable of completing an affidavit of voter registration before the person shall be disqualified from voting.

(c) Whenever an order establishing a conservatorship is made and in connection with such order it is found that the person is not capable of completing an affidavit of voter registration, the court shall forward such order and determination to the county clerk of the person's county of residence

SEC. 39. Section 707.6 of the Elections Code is amended to read:

707.6. (a) For conservatorships established pursuant to Division 4 (commencing with Section 1400) of the Probate Code, the court investigator shall, during the yearly or biennial review of the conservatorship as required by Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of the Probate Code, review the person's capability of completing an affidavit of voter registration in accordance with Section 500

(b) If the person had been disqualified from voting by virtue of being incapable of completing an affidavit of voter registration, the court investigator shall determine whether the person has become capable of completing the affidavit, and, the investigator shall so inform the court

If the investigator finds that the person is capable of completing the affidavit, the court shall hold a hearing to determine whether the person is in fact capable of completing the affidavit If the person is

found to be capable of completing the affidavit, the person's right to register to vote shall be restored and the court shall so notify the county clerk.

(c) If the person had not been found to be incapable of completing an affidavit of voter registration, and, the court investigator determines that the person is no longer capable of completing the affidavit, the investigator shall so notify the court. The court shall hold a hearing to determine whether the person is capable of completing an affidavit of voter registration, and, if the court determines that the person is not so able, the court shall order the person to be disqualified from voting and the court will so notify the county clerk.

SEC. 40. Section 764 of the Financial Code is amended to read:

764. Any court having jurisdiction of any estate in process of administration or of any other proceeding, on application of any person interested therein and after a hearing on such notice as the court may direct or without notice if all parties in interest consent thereto, may order any executor, administrator, guardian, conservator, assignee, receiver, depositary, or trustee, whether such officer or trustee has qualified as such or not, to deposit with any bank or trust company any money then in his hands or under his control or which may thereafter come into his hands until the further order of the court. Upon such deposit being made and while such moneys remain on deposit with such bank or trust company, the officer or trustee making the deposit shall be relieved of all responsibility therefor, and the court by order shall reduce the bond to be given or theretofore given by such officer or trustee so as to cover only the estate remaining in his hands. The money so deposited shall be held by the bank or trust company under the direction of the court and shall be repaid only on order of the court. If the amount sought to be deposited in any one bank does not exceed the amount which will be covered by insurance of the Federal Deposit Insurance Corporation an order for deposit hereunder may be made ex parte without notice or hearing.

SEC. 41. Section 2057 of the Financial Code is amended to read:

2057. Upon the approval by the superintendent of an agreement of purchase and sale, the superintendent shall fix a time when such approval shall be effective and at such time the purchasing bank or trust company ipso facto and by operation of law and without further transfer, substitution, act, or deed succeeds to all rights, obligations, properties, assets, investments, deposits, demands, and agreements covered by the agreement, and to all trusts of the selling bank or of the business or branch sold or of the branch business sold and to all properties, assets, investments, agreements, rights, and obligations of the selling bank or trust company under all trusts, executorships, adminstrations, guardianships, conservatorships, agencies, and all other fiduciary or representative capacities to the same extent as though it had originally assumed, acquired, or owned the same and succeeds to and is entitled to take and execute the appointment of

all executorships, trusteeships, guardianships, conservatorships, and other fiduciary and representative capacities to which the selling bank or trust company 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. 42. 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, conservatorships, 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, conservatorships, 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. 43. Section 2073 of the Financial Code is amended to read:

2073. Whenever any bank qualified to do a trust business or any trust company has been merged into 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, conservatorships, 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, conservatorships, 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. 44. 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, conservatorships, 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, conservatorships, 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. 45. Section 3110.1 of the Financial Code is amended 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) of Division 1 of 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, conservatorships, 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, conservatorships, 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. 46 Section 6408.5 of the Financial Code is amended to read:

6408.5. Any court having jurisdiction of any estate in process of administration or of any other proceeding, on application of any person interested therein and after a hearing on such notice as the court may direct or without notice if all parties in interest consent thereto, may order any executor, administrator, guardian, conservator of a natural person, assignee, receiver, depositary, or trustee, whether such officer or trustee has qualified as such or not, to invest in an account in an insured savings and loan association any money then in his hands or under his control or which may thereafter come into his hands until the further order of the court. Upon such investment being made and while such moneys remain invested with such association, the officer or trustee making such investment shall be relieved of all responsibility therefor, and the court by order shall reduce the bond to be given or theretofore given by such officer or trustee so as to cover only the estate remaining in his hands. The money so invested shall be held by the association under the direction of the court and shall be repaid only on order of the court If the amount sought to be invested in any one association does not exceed the amount which will be covered by insurance of the Federal Savings and Loan Insurance Corporation an order for investment hereunder may be made ex parte without notice or hearing The term "account in an insured savings and loan

association" used in this section has the same meaning as in Section 1406 of the Probate Code.

SEC. 47 Section 7605 of the Financial Code is amended to read:

7605. Associations may issue shares and investment certificates to any person as trustee, guardian, or conservator. The association is not liable to beneficiaries, wards, or conservatees for money paid to their trustees, guardians, or conservators on account of such shares or certificates.

SEC. 49. Section 8452 of the Financial Code is amended to read:

8452. Persons holding stock as executors, administrators, guardians, conservators, or trustees are not personally subject to any liabilities as stockholders, but the estates and funds in their hands are liable to the same extent as the testator, intestate, ward, conservatee, or person interested in such trust funds would be if living and competent to act and hold such stock in his own name

SEC. 50. Section 11207 of the Financial Code is amended to read:

11207. All shares issued by any duly chartered federal savings and loan association which is an "insured institution" as defined in Title IV of the National Housing Act, are legal investments for the funds of executors, administrators, guardians, conservators, trustees of every kind and nature, insurance companies, cemetery associations, and savings banks and are acceptable and may be used as security for the faithful performance of any public or private trust or obligation.

The provisions of this section are supplemental to any and all other acts regulating, relating to, or declaring what shall be legal investments for the funds of executors, administrators, guardians, conservators, receivers, trustees, or insurance companies, or for any of the other funds referred to therein.

SEC. 51. Section 6102 of the Government Code is amended to read:

6102. No fee shall be charged in proceedings for the appointment of a guardian or conservator for any persons receiving charity or relief under the laws of this state.

SEC. 52. Section 6107 of the Government Code is amended to read·

6107. Neither the state nor any county, or city, nor any public officer or body acting in his official capacity on behalf of the state, any county, or city, including notaries public, shall demand or receive any fee or compensation for·

(a) Recording or indexing any discharge, certificate of service, certificate of satisfactory service, notice of separation or report of separation of any member of the armed forces of the United States.

(b) Issuing certified copies of such discharges, certificates of service, certificates of satisfactory service, reports of separation or notices of separation

(c) Any service whatever rendered in the matter of a pension claim, application, affidavit, voucher, or any claim to be presented to the Administrator of Veterans' Affairs under the World War Veterans' Act, 1924.

(d) Furnishing a certified copy of any public record, or making the search for it, when it is to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise under the World War Veterans' Act, 1924, or under any other act of Congress for service in the armed forces of the United States, or a claim for veterans' benefits under any law of this state.

The services specified in this section shall be rendered on the request of a United States official, a claimant, or his guardian or conservator or attorney. An officer is liable on his official bond for every failure or refusal to render the services.

SEC. 53. Section 6606 of the Government Code is amended to read:

6606. The superintendent or warden may deposit any funds of inmates in his possession in any bank in the state With the consent of the owners of the funds or their guardians or conservators, he may deposit the interest accruing on the funds in a special fund designated the "benefit fund" or "post fund."

SEC. 54 Section 6860 of the Government Code is amended to read:

6860 Notwithstanding any restrictions on investments contained in any laws, farm loan bonds, consolidated farm loan bonds, collateral trust debentures, consolidated debentures, or other obligations issued under the Federal Farm Loan Act approved July 17, 1916, as amended (Title 12 U.S.C Sections 636 to 1012 inclusive, and Sections 1021 to 1129 inclusive), the Farm Credit Act of 1933, as amended (Title 12 U.S.C Sections 1131 to 1138f inclusive), and the Farm Credit Act of 1971 (Title 12 U.S.C Sections 2001 to 2259 inclusive), are a lawful investment for all public funds, including but not limited to all funds of the state and of every local agency as defined by Section 53600 of this code, and for the funds of savings banks, insurance companies, executors, administrators, guardians, conservators, receivers, and trustees of every kind and nature. Whenever any bonds may by law be used as security for the performance of any act, such bonds and debentures may be so used. This section applies to farm loan bonds and consolidated farm loan bonds issued by federal land banks, consolidated collateral trust debentures and all other debentures issued by federal intermediate credit banks, debentures issued by the Cental Bank for Cooperatives and consolidated debentures issued by banks for cooperatives It is the purpose of this section to authorize any person, political subdivision, body, or officer, public or private, to use any funds owned or controlled by him or it, including sinking, insurance, investment, retirement, compensation, pension, and trust funds, and funds held on deposit, for the purchase of any such bonds, debentures, or other obligations. Nothing in this section relieves any person from any duty of exercising reasonable care in selecting securities

SEC 55 Section 21207 of the Government Code is amended to

read:

21207. If any person entitled to a benefit from this system is a minor who has no guardian of the estate, the board, if within the limits as to amount of payment and value of the minor's estate specified as of the time of payment under the provisions of the Probate Code authorizing payment to a parent of a minor entitled to the minor's custody, may pay it to the person entitled to custody of the minor to hold for the minor, if the person files with the board a verified statement that the total estate of the minor does not exceed the value so specified or, if in excess of such limits, may pay it to the probate court, and the court may order that such money be deposited in a bank or banks, or a trust company or companies, or invested in an account or accounts in an insured savings and loan association or associations, subject to withdrawal only on order of the probate court, or it may require a guardian of the estate to be appointed and the money paid to such guardian, or prescribe such other conditions as the court in its discretion deems to be in the best interest of the minor. Payment so made is a full discharge of the board and this system. The person shall account to the minor for the money when the minor reaches the age of majority.

The term "account in an insured savings and loan association" used in this section has the same meaning as in Section 1406 of the Probate Code.

SEC. 56. Section 21382 of the Government Code is amended to read:

21382. If the death benefit provided by Section 21361 is payable on account of a member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, (a) the surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 18 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of such age, or if there is no such spouse, then (b) the guardian or conservator of surviving unmarried children, including stepchildren, of the member who are under 18 years of age or so incapacitated, if any, or (c) the surviving wife or surviving husband of the member, who does not qualify under (a) of this subdivision, if any, or if no such children under (b) or such spouse under (c), then (d) each surviving parent of the member, shall be paid regardless of the benefit provided by Section 21361, and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable survivor allowance, under the conditions stated and from contributions of the state:

(1) A widow or a widower who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member under 18 years of age or so

incapacitated, shall be paid three hundred sixty dollars ($360) if there is one such child, or four hundred thirty dollars ($430) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of one hundred eighty dollars ($180) per month, shall be divided equally among all such children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if such surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member under 18 years of age, or if there are such children not in the care of such spouse, such children shall be paid an allowance as follows:

(a) If there is only one such child, such child shall be paid one hundred eighty dollars ($180) per month;

(b) If there are two such children, such children shall be paid three hundred sixty dollars ($360) per month divided equally between them; and

(c) If there are three or more such children, such children shall be paid four hundred thirty dollars ($430) per month divided equally among them.

(3) A widow or widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has not remarried subsequent to the member's death, shall be paid one hundred eighty dollars ($180) per month. No allowance shall be paid under this subdivision, while the surviving spouse is receiving an allowance under subdivision (1) of this section, or while an allowance is being paid under subdivision (2) (c) of this section. The allowance paid under this subdivision shall be seventy dollars ($70) per month while an allowance is being paid under subdivision (2) (b) of this section.

(4) If there is no surviving spouse, or surviving children who qualify for a survivor allowance, or if such surviving spouse dies or remarries, or if such children reach age 18 or die or marry prior thereto, each of the member's dependent mother and father who has attained or attains the age of 62, and who received at least one-half of his or her support from the member at the time of the member's death, shall be paid one hundred eighty dollars ($180) per month.

"Stepchildren", for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death

The amendments to this section enacted at the 1971 Regular Session shall apply only to survivor allowances payable for time commencing on the operative date of such amendments.

SEC. 57 Section 21382.2 of the Government Code is amended to read.

21382.2. If the death benefit provided by Section 21361 is payable

on account of a state member's death which occurs under circumstances other than those described in subdivision (a) (5) of Section 21360, or if an allowance under Section 21365.5 is payable, (a) the surviving wife or surviving husband of the member, who has the care of unmarried children, including stepchildren, of the member who are under 18 years of age, or are incapacitated because of disability which began before and has continued without interruption after attainment of such age, or if there is no such spouse, then (b) the guardian or conservator of surviving unmarried children, including stepchildren, of the member who are under 18 years of age or so incapacitated, if any, or (c) the surviving wife or surviving husband of the member, who does not qualify under (a) of this subdivision, if any, or if no such children under (b) or such spouse under (c), then (d) each surviving parent of the member, shall be paid regardless of the benefit provided by Section 21361, and of the beneficiary designated by the member under that section, or regardless of the allowance provided under Section 21365.5, the following applicable survivor allowance, under the conditions stated and from contributions of the state:

(1) A widow or a widower who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has the care of unmarried children, including stepchildren, of the deceased member under 18 years of age or so incapacitated, shall be paid four hundred fifty dollars ($450) if there is one such child, or five hundred thirty-eight dollars ($538) per month if there are two or more such children. If there also are such children who are not in the care of the surviving spouse, the portion of the allowance payable under this paragraph, assuming that these children were in the care of the surviving spouse, which is in excess of two hundred twenty-five dollars ($225) per month, shall be divided equally among all such children and payments made to the spouse and other children, as the case may be.

(2) If there is no such surviving spouse, or if such surviving spouse dies or remarries, and if there are unmarried children, including stepchildren, of the deceased member under 18 years of age, or if there are such children not in the care of such spouse, such children shall be paid an allowance as follows:

(a) If there is only one such child, such child shall be paid two hundred twenty-five dollars ($225) per month;

(b) If there are two such children, such children shall be paid four hundred fifty dollars ($450) per month divided equally between them; and

(c) If there are three or more such children, such children shall be paid five hundred thirty-eight dollars ($538) per month divided equally among them

(3) A widow or a widower who has attained or attains the age of 62 years, and, with respect to both widow and widower, who was married to such member prior to the occurrence of the injury or onset of the illness which resulted in death, and has not remarried

subsequent to the member's death, shall be paid two hundred twenty-five dollars ($225) per month. No allowance shall be paid under this subdivision, while the surviving spouse is receiving an allowance under subdivision (1) of this section, or while an allowance is being paid under subdivision (2) (c) of this section. The allowance paid under this subdivision shall be eighty-eight dollars ($88) per month while an allowance is being paid under subdivision (2) (b) of this section.

(4) If there is no surviving spouse, or surviving children who qualify for a survivor allowance, or if such surviving spouse dies or remarries, or if such children reach age 18 or die or marry prior thereto, each of the member's dependent mother and father who has attained or attains the age of 62, and who received at least one-half of his support from the member at the time of the member's death, shall be paid two hundred twenty-five dollars ($225) per month.

"Stepchildren," for purposes of this section, shall include only stepchildren of the member living with him in a regular parent-child relationship at the time of his death

This section shall apply to beneficiaries receiving allowances on July 1, 1975, as well as to beneficiaries with respect to the death of a state member occurring on or after July 1, 1975.

Notwithstanding Section 20019.1, this section shall not apply to school members.

SEC. 58. Section 27706 of the Government Code is amended to read:

27706. The public defender shall perform the following duties:

(a) Upon request of the defendant or upon order of the court, the public defender shall defend, without expense to the defendant, except as provided by Section 987.8 of the Penal Code, any person who is not financially able to employ counsel and who is charged with the commission of any contempt or offense triable in the superior, municipal or justice courts at all stages of the proceedings, including the preliminary examination. The public defender shall, upon request, give counsel and advice to such person about any charge against the person upon which the public defender is conducting the defense, and shall prosecute all appeals to a higher court or courts of any person who has been convicted, where, in the opinion of the public defender, the appeal will or might reasonably be expected to result in the reversal or modification of the judgment of conviction.

(b) Upon request, the public defender shall prosecute actions for the collection of wages and other demands of any person who is not financially able to employ counsel, where the sum involved does not exceed one hundred dollars ($100), and where, in the judgment of the public defender, the claim urged is valid and enforceable in the courts.

(c) Upon request, the public defender shall defend any person who is not financially able to employ counsel in any civil litigation in which, in the judgment of the public defender, the person is being persecuted or unjustly harassed.

(d) Upon request, or upon order of the court, the public defender shall represent any person who is not financially able to employ counsel in proceedings under Division 4 (commencing with Section 1400) of the Probate Code and Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

(e) Upon order of the court, the public defender shall represent any person who is entitled to be represented by counsel but is not financially able to employ counsel in proceedings under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code.

(f) Upon order of the court the public defender shall represent any person who is required to have counsel pursuant to Section 686.1 of the Penal Code.

(g) Upon the order of the court or upon the request of the person involved, the public defender may represent any person who is not financially able to employ counsel in a proceeding of any nature relating to the nature or conditions of detention, of other restrictions prior to adjudication, of treatment, or of punishment resulting from criminal or juvenile proceedings.

SEC. 59. Section 39585 of the Government Code is amended to read.

39585 The legislative body may order refunded all or part of a tax paid pursuant to this article if it finds that all or part of the tax has been erroneously levied A tax or part shall not be refunded unless a claim is filed with the clerk of the legislative body on or before November 1st after the tax became due and payable The claim shall be verified by the person who paid the tax or by the person's guardian, conservator, executor, or administrator

SEC. 60. Section 56050 of the Government Code is amended to read:

56050. "Legal representative" means: an officer of a corporation duly authorized, by the bylaws or a resolution of the board of directors of such corporation, to sign for and on behalf of the corporation, and a guardian, conservator, executor, administrator or other person holding property in a trust capacity under appointment of court, when authorized by an order of court, which order may be made without notice.

SEC 61. Section 69649 of the Government Code is amended to read·

69649. When a majority of the judges of the superior court deem it necessary or advisable, by order filed with the county clerk and published as they may prescribe, they may direct that a session of the court be held at least once a week at any designated place in a district, not less than 30 miles distant from the nearest regular location of the sessions of the superior court in that district, measured by airline. The majority of the judges may limit the type of judicial proceedings which may be heard by the court at such place to probate, guardianship, conservatorship, and domestic relations matters, including but not limited to orders to show cause

proceedings in domestic relations matters.

SEC. 62. Section 70015 of the Government Code is amended to read:

70015. In addition to a fee or fees required by any other law or laws, a fee of thirteen dollars ($13) shall be paid to the county clerk of such a county by each party, or jointly by parties appearing jointly in each of the following instances:

(a) Where Section 26821.2 requires such party or parties to pay the county clerk a fee for the filing of the first paper in a civil action or in a special proceeding, except in an appeal from an inferior court.

(b) Where Sections 26822 to 26825, inclusive, require such party or parties to pay the county clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court.

(c) Where Section 26826.2 requires such party or parties to pay the county clerk a fee for the appearance in a civil action or special proceeding of a defendant, intervenor, respondent, corespondent, or adverse party, except in an appeal from an inferior court. If any of the parties named in this subdivision appear jointly they shall pay but one such additional fee of thirteen dollars ($13) as in this section provided.

(d) Where Section 26827.2 requires such party or parties to pay the county clerk a fee for the filing of a petition or other paper in a probate or guardianship or conservatorship matter.

SEC. 63. Section 70053 of the Government Code is amended to read:

70053. In addition to fees required by other laws, each party shall, or the parties appearing jointly shall jointly, pay the county clerk of the county the fee specified in Sections 70054 to 70059.5, inclusive, in each of the following instances:

(a) Where Section 26821, 26821.1, or 26821.2 requires the party or parties to pay the clerk a fee for the filing of the first paper in a civil action or in a special proceeding, except in an appeal from an inferior court.

(b) Where Sections 26822 to 26825, inclusive, require the party or parties to pay the clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court. This subdivision does not apply to a county with a population of 70,000 or less by the 1940 census, or over 295,000 and under 500,000 by the 1950 census

(c) Where Section 26822 requires the party or parties to pay the clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court. This subdivision applies only to a county with a population of 70,000 or less by the 1940 federal census, or over 295,000 and under 500,000 by the 1950 federal census.

(d) Where Section 26826, 26826.1, or 26826.2 requires the party or

parties to pay the clerk a fee on the appearance in a civil action or special proceeding of a defendant, intervenor, respondent, corespondent, or adverse party, except in an appeal from an inferior court. If any of such parties appear jointly they shall pay but one such additional fee of three dollars ($3), four dollars ($4), five dollars ($5), or six dollars and fifty cents ($6.50) as determined by Sections 70054 to 70059.5, inclusive.

(e) Where Section 26827, 26827.2, or 26827.3 requires the party or parties to pay the clerk a fee for the filing of a petition or other paper in a probate or guardianship or conservatorship matter.

SEC. 64. Section 416.1 of the Health and Safety Code is amended to read:

416.1. Unless exceptions are expressly made in this article, the provisions of Division 4 (commencing with Section 1400) of the Probate Code shall apply to guardianship and conservatorship appointments made under this article.

SEC. 65. Section 416.7 of the Health and Safety Code is amended to read:

416.7. If the alleged developmentally disabled person is within the state and is able to attend, he shall be present at the hearing. If he is unable to attend by reason of physical or other inability, such inability shall be evidenced by the affidavit or certificate of a duly licensed medical practitioner as provided in Section 1825 of the Probate Code. Such affidavit or certificate shall be filed no later than 10 days prior to the time of the hearing.

SEC. 66. Section 416.8 of the Health and Safety Code is amended to read:

416.8. In addition to the requirements of Division 4 (commencing with Section 1400) of the Probate Code, the court shall be provided by the regional center with a complete evaluation of the developmentally disabled person for whose protection the appointment is sought. The report shall include a current diagnosis of his physical condition prepared under the direction of a licensed medical practitioner and a report of his current mental condition and social adjustment prepared by a licensed and qualified social worker or psychologist. The evaluation report required by this section shall not be made part of the public record of the guardianship or conservatorship proceedings and shall be open to inspection only by court personnel, the person who is the subject of the proceeding, his parents, guardian or conservator, the attorneys for such parties, and such other persons as may be designated by the court. If an affidavit or certificate has been filed as provided in Section 416.7 evidencing the inability of the alleged developmentally disabled person to be present at the hearing, the psychologist or social worker who assists in preparing the report shall visit the alleged developmentally disabled person and be prepared to testify as to his present condition.

SEC. 67. Section 416.9 of the Health and Safety Code is amended to read

416.9. The court may appoint the Director of Developmental

Services as guardian or conservator of the person and estate or person or estate of a minor or adult developmentally disabled person. The preferences established in Section 1812 of the Probate Code for appointment of a conservator shall not apply. An appointment of the Director of Developmental Services as conservator shall not of itself constitute a judicial finding that the developmentally disabled person is legally incompetent. The petition for the appointment of the Director of Developmental Services as conservator of an adult developmentally disabled person may include a request that the court adjudge the developmentally disabled person to be legally incompetent or such an adjudication may be made subsequently upon a petition made, noticed, and heard by the court in the same manner as a petition for the appointment of the director as conservator. If the Director of Developmental Services is serving as the guardian of an adult developmentally disabled person on December 31, 1980, after that date such appointment shall be deemed to be the appointment of a conservator and the conservatee shall be deemed to have been adjudged to be legally incompetent

SEC. 68. Section 416 95 of the Health and Safety Code is amended to read:

416.95. Prior to the appointment of the Director of Developmental Services as guardian or conservator of the person or estate of a minor or adult developmentally disabled person, the court shall inform the person of the nature and purpose of the guardianship or conservatorship proceedings and the effect of the proceedings on the basic rights of the person. After communicating the information to the alleged developmentally disabled person and prior to the appointment of the Director of Developmental Services as guardian or conservator, the court shall consult with the person to determine the person's opinion concerning the appointment.

Any adult developmentally disabled person for whom guardianship or conservatorship is sought pursuant to this article shall be informed by a member or designee of the regional center and by the court of the person's right to counsel; and if the person does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent the person The person shall pay the cost for such legal service if able.

If an affidavit or certificate has been filed, as provided in Section 416.7, evidencing the inability of the alleged developmentally disabled person to be present at the hearing, the psychologist or social worker assisting in preparing the report and who is required to visit each person as provided in Section 416 8 shall communicate such information to the person during the visit, consult the person to determine the person's opinion concerning the appointment, and be prepared to testify as to the person's opinion, if any.

SEC. 69 Section 416.14 of the Health and Safety Code is amended to read·

416.14 The Director of Developmental Services shall·

(a) Consult with developmentally disabled persons and their families with respect to the services the director offers.

(b) Act as adviser for those developmentally disabled persons who request the director's advice and guidance or for whose benefit it is requested.

(c) Accept appointment as guardian or conservator of the person and estate, or person or estate, of those developmentally disabled persons who need the director's assistance and protection.

SEC. 70. Section 416.16 of the Health and Safety Code is amended to read:

416.16. The Director of Developmental Services shall have the same powers and duties as those established for guardians and conservators in Division 4 (commencing with Section 1400) of the Probate Code and shall succeed the State Director of Health as guardian or conservator of developmentally disabled individuals for whom the State Director of Health was appointed guardian or conservator.

SEC. 71. Section 416.23 of the Health and Safety Code is amended to read:

416.23. This article does not authorize the care, treatment, or supervision or any control over any developmentally disabled person *without the written consent of his parent or guardian or conservator.*

SEC. 72. Section 1453 of the Health and Safety Code is amended to read:

1453. The board of supervisors of any county in connection with the administration of any county hospital may establish in the county treasury a special fund to be known as the "patients' personal deposit fund." When such fund is established, any patient in the hospital may request the superintendent thereof to deposit in the fund any moneys belonging to the patient. Upon any such request by any patient any moneys belonging to the patient shall be deposited in the name of that patient in the patients' personal deposit fund, except that if a guardian or conservator of the estate is appointed for the patient, then the guardian or conservator shall have the right to demand and receive such moneys or to withdraw either in whole or in part the moneys theretofore deposited in the fund in the name of the patient. Any of the funds belonging to a patient deposited in the patients' personal deposit fund may be used for the purchase of personal incidentals for the patient or otherwise used for the personal needs and benefits of the patient upon his request. At the time of the discharge from the hospital of any patient there shall be refunded to him upon the order of the superintendent the balance of any moneys standing to the credit of the patient in the fund.

Prior to the time of the discharge of any patient, upon the demand of the patient there shall be refunded to him upon the order of the superintendent the whole or any portion of the balance of any moneys standing to the credit of the patient in the fund. Upon such demand of the patient, or upon the discharge of the patient from the hospital, or upon the demand of the guardian or conservator of the

estate of the patient, the superintendent shall order the refund to the patient or the payment to such guardian or conservator as hereinbefore provided.

SEC. 73. Section 2291.2 of the Health and Safety Code is amended to read:

2291.2. The district board may institute projects for single zones and joint projects for two or more zones, for the financing and execution of algae research, algae control, or algae monitoring projects of common benefit to such zone or participating zones. For the purpose of acquiring authority to proceed with any such project, the board shall adopt a resolution specifying its intention to undertake such project, together with estimates of the cost of same to be borne by the particular zone and in the case of participating zones the proportionate cost to be borne by each of the participating zones and fixing a time and place for public hearing of the resolution and which shall contain a general statement of the objectives of any research project and of the operation of any control or monitoring project. Notice of such hearing shall be given by publication once a week for two consecutive weeks prior to the hearing, the last publication of which notice shall be at least seven days before such hearing, in a newspaper of general circulation, circulated in such zone or each of the participating zones, if there be such newspaper, and if there be no such newspaper then by posting notice for two consecutive weeks prior to the hearing in five public places designated by the board, in such zone or in each of the participating zones. The notice shall designate a public place in such zone or in each of the participating zones where a copy or copies of the resolution may be seen by any interested person. The resolution shall be posted in each of such public places so designated in the notice at least two weeks prior to the hearing.

At the time and place fixed for the hearing, or any time to which the hearing may be continued, the board shall consider all written and oral objections to the proposed project. Upon the conclusion of the hearing, the board may abandon the proposed project or proceed with it, unless prior to the conclusion of the hearing a written protest against the proposed project signed by persons representing one-half or more of the assessed valuation of the property within such zone or within any of the participating zones for which the project was initiated, is filed with the board. If such a written protest is filed with the board, further proceedings relating to such project shall be suspended for not less than six months following the date of the conclusion of the hearing, or the proceeding may be abandoned in the discretion of the board.

In all matters in this section referred to, the last equalized assessment roll of the county or counties within which a mosquito abatement district lies next preceding the filing of the protest shall be prima facie evidence as to the ownership of property, the names and number of the persons who are the holders of title or evidence of title, or assessable rights therein, and as to the assessed valuation

of property within the zone or within any of the participating zones for which the project was initiated.

Executors, administrators, special administrators, guardians, and conservators may sign the protest provided for in this section on behalf of the estate represented by them. If the property is assessed in the name of such representatives, the fact shall establish the right of such representatives to sign the protest If it is assessed in the name of the decedent, ward, or conservatee, certified copies of the letters or such other evidence as may be satisfactory to the board shall be produced.

Where property appears to be owned in common or jointly or by a partnership, or where letters of representatives of decedents, wards, or conservatees are joint, only one of the owners or representatives or partners may sign the protest for all joint owners or representatives or partners. The party claiming the right to protest for all shall produce the written consent of his coowners or representatives or partners so to do Where however, property appears to be owned in common or jointly by husband and wife, either may sign the protest without the written consent of the other.

Where property is assessed in the name of a trustee or trustees, such trustee or trustees shall be deemed to be the person entitled to sign the protest. If it is assessed in the name of more than one trustee, the right to sign the protest shall be determined in like manner as above provided with respect to coowners.

The protest of any public or quasi-public corporation, private corporation or unincorporated association, may be signed by any person authorized by the board of directors or trustees or other managing body thereof, such authorization shall be in writing. A proxy executed by an officer or officers thereof, attested by its seal, shall constitute sufficient evidence of such authority, and shall be filed with the board.

The owner of any real property or interest therein, appearing upon the assessment roll, which has been assessed in the wrong name or to unknown owners, or which has passed from the owner appearing as such on the last equalized assessment roll, since the same was made, may sign the protest represented thereby, if he produces a proxy from such former owner, or furnishes evidence of his ownership by a conveyance duly acknowledged showing the title to be vested in the person claiming the right to sign the protest, accompanied by a certificate of a competent searcher of titles, certifying that a search of the official records of the county, since the date of the conveyance, discloses no conveyance or transfer out from the grantee or transferee named in the conveyance.

Where the real property has been contracted to be sold, the vendee may sign the protest, unless such real property is assessed in the name of the vendor, in which event the vendor may do so.

The board may inquire and take evidence for the purpose of identifying any person claiming the right to sign the protest as being the person shown on the assessment roll or otherwise as entitled

thereto. Unless satisfactory evidence is furnished, the right to sign the protest may be denied.

SEC. 74. Section 7151.5 of the Health and Safety Code is amended to read:

7151.5. Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in Section 7153.5:

(a) The spouse.

(b) An adult son or daughter.

(c) Either parent.

(d) An adult brother or sister.

(e) A guardian or conservator of the person of the decedent at the time of the decedent's death.

(f) Any other person authorized or under obligation to dispose of the body.

SEC. 75. Section 24175 of the Health and Safety Code is amended to read:

24175. (a) Except as otherwise provided in this section, no person shall be subjected to any medical experiment unless the informed consent of such person is obtained.

(b) If a person is under a conservatorship of the person or of the person and estate, pursuant to Division 4 (commencing with Section 1400) of the Probate Code, informed consent for a medical experiment involving such person shall be obtained:

(1) As provided in Section 2354 of the Probate Code if the person has not been adjudicated to lack the capacity to give informed consent for medical treatment.

(2) As provided in Section 2355 of the Probate Code if the person has been adjudicated to lack the capacity to give informed consent for medical treatment.

(c) If an adult person is gravely disabled, as defined in subdivision (h) of Section 5008 of the Welfare and Institutions Code, and is under a conservatorship of the person or of the person and estate, pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, informed consent for a medical experiment involving such person shall be obtained from such person, unless the conservator of such person has the right to consent to medical treatment on behalf of the conservatee, pursuant to subdivisions (c) and (d) of Section 5357 and Section 5358 of the Welfare and Institutions Code.

(d) If an adult person is developmentally disabled, as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code, and has no conservator and is mentally incapable of giving informed consent, informed consent shall be obtained for a medical experiment involving such person, pursuant to subdivision (c) of Section 4655 of the Welfare and Institutions Code.

(e) Informed consent given by a person other than the human subject pursuant to subdivisions (b) through (d), inclusive, of this section shall only be for medical experiments related to maintaining or improving the health of the human subject or related to obtaining information about a pathological condition of the human subject.

SEC. 76. Section 33663 of the Health and Safety Code is amended to read:

33663. Notwithstanding any restrictions on investments contained in any laws, the state and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, conservators, trustees, and other fiduciaries may legally invest any sinking funds, money, or other funds belonging to them or within their control in any bonds or other obligations issued by an agency. Such bonds and other obligations are authorized security for all public deposits. It is one of the purposes of this part to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public and private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension, and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations. This part does not relieve any person, firm, or corporation from any duty of exercising reasonable care in selecting securities

SEC. 77. Section 33783 of the Health and Safety Code is amended to read:

33783. Notwithstanding any other provision of law, revenue bonds issued pursuant to this chapter shall be legal investments for all trust funds, insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, guardians, conservators, trustees, and all other fiduciaries Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal, or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be authorized by law, including deposits to secure public funds.

SEC. 78. Section 34369 of the Health and Safety Code is amended to read:

34369. Notwithstanding any restrictions on investments contained in any laws of this state, the state, all public officers, municipal corporations, political subdivisions, and public bodies, all

banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, conservators, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by an authority pursuant to this chapter, or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits.

SEC. 79. Section 37649 of the Health and Safety Code is amended to read:

37649. Notwithstanding any other provisions of law, bonds issued pursuant to this part shall be legal investments for all trust funds, the funds of insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, guardians, conservators, trustees, and all other fiduciaries. Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal, or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

SEC. 80. Section 37939 of the Health and Safety Code is amended to read

37939. Notwithstanding any other provisions of law, bonds issued pursuant to this part shall be legal investments for all trust funds, the funds of insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, guardians, conservators, trustees, and all other fiduciaries. Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal, or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of funds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

SEC. 81. Section 44546 of the Health and Safety Code is amended to read

44546. If, in the opinion of the State Treasurer, any bonds issued

by the authority under the provisions of this division are adequately secured and the revenues and other funds applicable to the payments of the bonds are, or upon the acquisition, construction, or improvement of the project or projects which such bonds finance, will be sufficient to pay the principal of and interest on such bonds, then the State Treasurer shall certify that such bonds are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, savings and loan associations, and investment companies, for executors, administrators, guardians, conservators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds, and that such bonds are securities which may properly and legally be deposited with, and received by, any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

SEC. 81.1. Section 44546 of the Health and Safety Code, as added by Assembly Bill No. 980, is amended to read:

44546. If, in the opinion of the State Treasurer, any bonds issued by the authority under the provisions of this division are adequately secured and the revenues and other funds applicable to the payments of the bonds are, or upon the acquisition, construction, or improvement of the project or projects which such bonds finance, will be sufficient to pay the principal of and interest on such bonds, then the State Treasurer shall certify that such bonds are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, savings and loan associations, and investment companies, for executors, administrators, guardians, conservators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds, and that such bonds are securities which may properly and legally be deposited with, and received by, any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

SEC. 82. Section 51375 of the Health and Safety Code is amended to read:

51375. The bonds of the agency shall be legal investments in which all public officers and public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking institutions, including savings and loan associations, building and loan associations, trust companies, savings banks and savings associations, investment companies and other persons carrying on a banking business, all administrators, guardians, conservators, executors, trustees and other fiduciaries, and all other persons whatsoever who

are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds may be used by any such private financial institution, person, or association as security for public deposits. The bonds are also hereby made securities which may properly and legally be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law, including deposits to secure public funds.

SEC. 83 Section 1686 of the Insurance Code is amended to read:

1686. To be eligible for an estate certificate of convenience, a person must be:

(a) The executor or administrator of the estate of a deceased insurance agent, insurance broker or life agent; or

(b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of such deceased insurance agent, insurance broker or life agent; or

(c) The conservator of the estate of an insurance agent, insurance broker or life agent.

SEC. 84. Section 1693 of the Insurance Code is amended to read:

1693. An estate certificate of convenience expires upon the happening of any of the following events, whichever occurs first:

(a) Upon the filing with the commissioner of a certified copy of an order appointing an executor or administrator, if such certificate of convenience has been issued to a person other than the person so appointed executor or administrator.

(b) Upon the filing with the commissioner of a certified copy of an order appointing a new conservator of the estate of an insurance agent, insurance broker or life agent.

(c) Upon the disposal of the business of the insurance agent, insurance broker or life agent who is deceased or for whom a conservator of the estate has been appointed.

(d) Upon the expiration of one year after the death of the deceased insurance agent, insurance broker or life agent; provided, however, that if during the said year the holder of such certificate of convenience files an application for a license to act as an insurance agent, insurance broker or life agent in his individual capacity, then such certificate of convenience may remain in force until the holder thereof has been given an opportunity to take the qualifying examination for such license.

(e) Upon the termination of the conservatorship of the estate of the insurance agent, insurance broker or life agent

SEC. 85 Section 10112 of the Insurance Code is amended to read.

10112 Subject to Section 2459 of the Probate Code, in respect to life or disability insurance, or annuity contracts (except as provided in Sections 2500 to 2507, inclusive, of the Probate Code and Section 3500 of the Probate Code and Chapter 4 (commencing with Section

3600) of Part 8 of Division 4 of the Probate Code), heretofore or hereafter issued to or upon the life of any person not of the full age of 18 years for the benefit of such minor or for the benefit of the father, mother, husband, wife, child, brother, or sister, of such minor, or issued to such minor, subject to written consent of a parent or guardian, upon the life of any person in whom such minor has an insurable interest for the benefit of himself or such minor's father, mother, husband, wife, child, brother or sister, such minor shall not, by reason only of such minority, be deemed incompetent to contract for such insurance or annuity, or for the surrender thereof, or to exercise all contractual rights thereunder, or, subject to approval of a parent or guardian, to give a valid discharge for any benefit accruing or for any money payable thereunder; provided, that all such contracts made by a minor under the age of 16 years, as determined by the nearest birthday, shall have the written consent of a parent or guardian, and that the exercise of all contractual rights under such contracts, or the surrender thereof, or the giving of a valid discharge for any benefit accruing or money payable thereunder, in the case of a minor under the age of 16 years, as determined by the nearest birthday, shall have the written consent of a parent or guardian.

All such contracts made by a minor not of the full age of 18 years which may result in any personal liability for assessment shall have the written assumption of any such liability by a parent or guardian in consideration of the issuance of the contract. Such assumption shall be in a form approved by the commissioner, reasonably designed to inform the parent or guardian of the liability thus assumed.

Such assumption of liability may be made a part of and included with any written consent of such parent or guardian required under other provisions of this section and it may be provided therein that such assumption shall cover only up to the anniversary date of the policy nearest to the member's birthday at which he or she attains age 18.

SEC. 86. Section 12392 of the Insurance Code is amended to read:

12392. If a domestic incorporated title insurer is authorized by its articles of incorporation to act as executor, administrator, guardian, conservator, assignee, receiver, depositary, agent or trustee, or to do a general trust business, and if such insurer has a capital paid in of not less than seven hundred thousand dollars ($700,000) it may also do business as a trust company, and maintain a trust department as well as a title insurance department, on compliance with the conditions set forth in this article. Notwithstanding the above minimum paid-in capital requirements, a title insurer which was operating under a certificate of authority which was in effect on July 1, 1971, and which title insurer on such date had a paid-in capital of less than seven hundred thousand dollars ($700,000), may engage in the activities permitted by this section upon compliance with the following paid-in capital requirements: (a) four hundred fifty

thousand dollars ($450,000) until July 1, 1974; (b) thereafter and until July 1, 1975, five hundred thousand dollars ($500,000); (c) thereafter and until July 1, 1976, six hundred thousand dollars ($600,000); and (d) after July 1, 1976, seven hundred thousand dollars ($700,000).

SEC. 87. Section 12528 of the Insurance Code is amended to read:

12528. Mortgage participation certificates and securities guaranteed by mortgage policies issued in conformity with the provisions of this chapter shall be legal investments for all trust funds held by any executor, administrator, guardian, conservator, trustee or other person holding trust funds, and for the funds of insurers, banks, banking institutions and trust companies.

SEC. 88. Section 12629.47 of the Insurance Code is amended to read:

12629.47. Any executor, administrator, guardian, conservator, or receiver, and any trustee of any kind or nature, and any insurer, bank, banking institution or trust company, and any officer of the State of California, holding any securities or certificates of a mortgage insurer as a legal investment or as a fund or deposit required by law to be made by the State of California, may, without the necessity of obtaining any specific court approval (a) consent to any plan which has been approved by the court pursuant to Sections 12629.30 to 12629.38, inclusive; (b) exchange any mortgage participation certificates or other securities or rights or claims for certificates, amended certificates or securities issued pursuant to such plan; and (c) may continue to hold as a legal investment or as a fund or deposit required by law to be made with the State of California any certificates, amended certificates or securities so received.

SEC. 89. Section 1700.20a of the Labor Code is amended to read:

1700.20a. The Labor Commissioner may issue to a person eligible therefor a certificate of convenience to conduct the business of a talent agency where the person licensed to conduct such talent agency business has died or has had a conservator of the estate appointed by a court of competent jurisdiction. Such a certificate of convenience may be denominated an estate certificate of convenience.

SEC. 90. Section 1700.20b of the Labor Code is amended to read:

1700.20b. To be eligible for a certificate of convenience, a person shall be either:

(a) The executor or administrator of the estate of a deceased person licensed to conduct the business of a talent agency.

(b) If no executor or administrator has been appointed, the surviving spouse or heir otherwise entitled to conduct the business of such deceased licensee.

(c) The conservator of the estate of a person licensed to conduct the business of a talent agency.

Such estate certificate of convenience shall continue in force for a period of not to exceed 90 days, and shall be renewable for such period as the Labor Commissioner may deem appropriate, pending

the disposal of the talent agency license or the procurement of a new license under the provisions of this chapter.

SEC. 91. Section 5408 of the Labor Code is amended to read:

5408. If an injured employee or, in the case of the employee's death, any of the employee's dependents, is under 18 years of age or incompetent at any time when any right or privilege accrues to such employee or dependent under this division, a guardian or conservator of the estate appointed by the court, or a guardian ad litem or trustee appointed by the appeals board, may, on behalf of the employee or dependent, claim and exercise any right or privilege with the same force and effect as if no disability existed.

No limitation of time provided by this division shall run against any person under 18 years of age or any incompetent unless and until a guardian or conservator of the estate or trustee is appointed. The appeals board may determine the fact of the minority or incompetency of any injured employee and may appoint a trustee to receive and disburse compensation payments for the benefit of such minor or incompetent and his family.

SEC. 92. Section 1046 of the Military and Veterans Code is amended to read:

1046. If it appears necessary or proper that a guardian or conservator of the estate of a veteran be appointed, the court in its discretion may, upon application of the commandant, acting through his designated officer, appoint the home as guardian or conservator of such estate and cause letters of guardianship or conservatorship of such estate to be issued to the home.

For the purposes of this chapter, the home is made a corporation and, acting through an officer designated by the commandant, may act as guardian or conservator of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, and transact business in such capacity in like manner as an individual, and for this purpose may sue and be sued in any of the courts of this state.

The home shall be appointed as guardian, conservator, assignee, receiver, depositary or trustee without bond. The officer designated by the commandant shall be required to give a surety bond in such amount as may be deemed necessary from time to time by the commandant, but in no event shall the initial bond be less than ten thousand dollars ($10,000) which bond shall be for the joint benefit of the several estates, the commandant, and the State of California. The home shall receive such reasonable fees as shall be allowable for its expenses for filing fees, attorneys' fees, and bond premiums. The court shall allow to the home at the time of its appointment as guardian or conservator of an estate an amount which the court estimates would be the bond premium for the estate if a separate bond were required for the estate. The fees paid to the home may be used as a trust account from which may be drawn expenses for filing fees, attorneys' fees and bond premiums in all estates it undertakes to administer Whenever the balance remaining in such

trust account shall exceed a sum deemed necessary by the commandant for the payment of the filing fees, attorneys' fees and bond premiums incurred in the various estates, such excess shall be paid annually into the post fund of the home.

The home when acting as guardian or conservator of a veteran may deposit the funds of the estate in the special deposit fund of the home, and may invest and reinvest such funds in securities which are legal investments for savings banks in this state.

SEC. 93. Section 1219 of the Military and Veterans Code is amended to read:

1219. Whenever the bonds of a district have been investigated and certified by any officer of this state authorized to make such investigation and certification, and by the authority of such certification have been declared to be legal for investment by savings banks of this state, then such bonds may be lawfully purchased or received in pledge for loans by savings banks, building and loan associations, trust companies, insurance companies, guardians, conservators, executors, administrators, special administrators, or by any public officer within this state holding funds which by law may be invested or loaned

SEC. 94. Section 1074 of the Penal Code is amended to read:

1074 A challenge for implied bias may be taken for all or any of the following causes, and for no other:

1. Consanguinity or affinity within the fourth degree to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or to the defendant.

2. Standing in the relation of guardian and ward, conservator and conservatee, attorney and client, master and servant, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or in his employment on wages.

3. Being a party adverse to the defendant in a civil action, or having complained against or been accused by him in a criminal prosecution.

4. Having served on the grand jury which found the indictment, or on a coroner's jury which inquired into the death of a person whose death is the subject of the indictment or information.

5. Having served on a trial jury which has tried another person for the offense charged.

6. Having been one of a jury formerly sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict, after the case was submitted to it.

7. Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

8. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty; in which case he must neither be permitted nor compelled to serve as a juror

SEC. 95. Section 1 of the Probate Code is amended to read:

1. This code shall be known as the Probate Code.

SEC. 96. Section 22.1 of the Probate Code is amended to read:

22.1. A bequest or devise to a nonprofit charitable corporation which has been appointed guardian or conservator of the person or estate, or both, of the person making the bequest or devise is invalid if the bequest or devise is contained in a will executed within six months prior to the filing of the petition for guardianship or conservatorship.

SEC. 97. Section 190 2 of the Probate Code is amended to read:

190.2. A disclaimer on behalf of a minor, conservatee, or decedent shall be made by the guardian of the estate of the minor, the conservator of the estate of the conservatee, or the personal representative of the decedent.

SEC. 98. Section 202 of the Probate Code is amended to read:

202. (a) Except as provided in Section 204, when a husband or wife dies intestate, or dies testate and by his or her will bequeaths or devises all or a part of his or her interest in the community property to the surviving spouse, it passes to the survivor subject to the provisions of Sections 203 and 205, and no administration thereon shall be necessary.

(b) Notwithstanding subdivision (a), upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse, the interest of the deceased spouse in the community property or both the interest of the deceased spouse and the surviving spouse in the community property may be administered under Division 3 (commencing with Section 300). The election must be made within four months after the issuance of letters testamentary or of administration by a writing filed in the proceedings for the administration of the estate of the deceased spouse and prior to the entry of an order under Section 655.

(c) Notwithstanding subdivision (a) or (b), the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file an election and agreement in the proceedings for the administration of the estate of the deceased spouse to have all or part of the interest of the surviving spouse in the community property transferred by the surviving spouse to the trustee under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee. The election and agreement must be filed before the entry of the decree of final distribution in the proceedings.

SEC. 98 1. Section 202 of the Probate Code is amended to read:

202. (a) Except as provided in Section 204, when a husband or wife dies intestate, or dies testate and by his or her will bequeaths or devises all or part of his or her interest in the community property to the surviving spouse, it passes to the survivor subject to the provisions of Sections 203 and 205, and no administration thereon is

necessary

(b) Notwithstanding subdivision (a), upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse, the interest of the deceased spouse in the community property or both the interest of the deceased spouse and the surviving spouse in the community property may be administered under Division 3 (commencing with Section 300). The election must be made within four months after the issuance of letters testamentary or of administration, or within the further time as the court may allow upon a showing of good cause, by a writing specifically evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse and prior to the entry of an order under Section 655.

(c) Notwithstanding subdivision (a) or (b), the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file an election and agreement in the proceedings for the administration of the estate of the deceased spouse to have all or part of the interest of the surviving spouse in the community property transferred by the surviving spouse or his or her personal representative, guardian, or conservator to the trustee under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee. The election and agreement must be filed before the entry of the decree of final distribution in the proceedings.

SEC. 99. Section 541 1 of the Probate Code is amended to read·

541.1. Notwithstanding the provisions of Section 541, in any proceedings for the determination of the amount of bond to be required of the executor or administrator (whether at the time of appointment or subsequently), when it appears that the estate of the decedent includes money or securities which have been, or will be, deposited in a bank or banks in this state or in a trust company authorized to transact a trust business in this state or money which has been, or will be, invested in an account or accounts in an insured savings and loan association or associations upon condition that such money or securities will not be withdrawn except on authorization of the court, the court may, in its discretion, order such money or securities so deposited or such money so invested and may exclude such deposited property from the computation of the amount of such bond or reduce the amount of bond to be required in respect of such money or securities to such an amount as it may deem reasonable

The petitioner for letters testamentary or of administration may deliver to any such bank or trust company any such money or securities in his possession or may deliver to any such association any such money in his possession or may allow such bank or trust company to retain any such money or securities already in its possession or may allow such association to retain any such money already invested with it; and, in either event, the petitioner shall

secure and file with the court a written receipt including the agreement of the bank or trust company or association that such money or securities shall not be allowed to be withdrawn except on authorization of the court. In so receiving and retaining such money or securities, the bank or trust company or association shall be protected to the same extent as though it had received the same from a person to whom letters testamentary or of administration had been issued.

The term "account in an insured savings and loan association" used in this section has the same meaning as in Section 1406 of the Probate Code.

SEC. 100. Section 585 of the Probate Code is amended to read:

585. An executor or administrator may deposit any money belonging to the estate with one or more banks within this state or invest any such money in an account or accounts in one or more insured savings and loan associations, whereupon he shall be discharged from further care or responsibility therefor until the money is withdrawn by him. Unless the money is deposited pursuant to an order, under the provisions of Division 1 of the Financial Code, or is invested pursuant to an order, under the provisions of Division 2 of the Financial Code, it may be withdrawn without order of court. The term "account or accounts in one or more insured savings and loan associations" used in this section has the same meaning as in Section 1406 of the Probate Code.

SEC. 101. Section 630 of the Probate Code is amended to read:

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

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

SEC. 101.1. Section 630 of the Probate Code is amended to read:

630. When a decedent leaves no real property, nor interest therein nor lien thereon, in this state, and the total value of the decedent's property in this state, excluding any motor vehicle of which the decedent is the owner or legal owner, over and above any amounts due to the decedent for services in the armed forces of the United States, and over and above the amount of salary not exceeding five thousand dollars ($5,000), including compensation for unused vacation, owing to decedent for services from any employment, does not exceed thirty thousand dollars ($30,000), the surviving spouse, the children, lawful issue of deceased children, a parent, brothers or sisters of the decedent, the lawful issue of a deceased brother or sister, or the guardian or conservator of the estate of any person bearing such relationship to the decedent, or the trustee named under a trust agreement executed by the decedent during his lifetime, the primary beneficiaries of which bear such relationship to the decedent, if such person or persons has or have a right to succeed to the property of the decedent, or is the sole beneficiary or are all of the beneficiaries under the last will and testament of the decedent, may, without procuring letters of administration, or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to such person or persons upon furnishing the person, representative, corporation, officer or body owing the money, having custody of such property or acting as registrar or transfer agency of such evidences of interest, indebtedness or right, with an affidavit or declaration under penalty of perjury showing the right of the person or persons to receive such money or property, or to have such evidences transferred

SEC. 102 Section 650 of the Probate Code is amended to read

650 (a) A surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file a petition in the superior court in the county in which the estate of the deceased spouse may be administered alleging that administration of all or a part of the estate is not necessary for the reason that all or a part of the estate is community property passing or belonging to the surviving spouse. The petition shall be verified and shall set forth the following information·

(1) The facts necessary to determine the county in which the estate of the deceased spouse may be administered if proceedings for the administration of the estate are not pending.

(2) The names, ages, and addresses of the heirs, devisees, and legatees of the deceased spouse, the names and addresses of all

persons named as executors of the will of the deceased spouse, and the names and addresses of all persons appointed as executors of the will or administrators of the estate of the deceased spouse, which are known to the petitioner.

(3) A description of the property of the deceased spouse which the petitioner alleges is community property passing to the surviving spouse, including the trade or business name of any community property business which the deceased spouse was operating or managing at the time of death.

(4) The facts upon which the petitioner bases the allegation that all or a part of the estate of the deceased spouse is community property passing to the surviving spouse.

(5) A description of any interest in the community property which the petitioner requests the court to confirm to the surviving spouse as belonging to the surviving spouse pursuant to Section 201.

(b) If the petitioner bases the allegation that all or part of the estate of the deceased spouse is community property passing to the surviving spouse upon the will of the deceased spouse, a copy of the will shall be attached to the petition.

(c) To the extent of the election, this section shall not apply if the petitioner has elected to have the interest of the deceased spouse in the community property or both the interest of the deceased spouse and the surviving spouse in the community property administered under this division pursuant to subdivision (b) of Section 202.

(d) The action authorized by this section may be taken by a guardian or conservator without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

SEC. 103. Section 704.2 of the Probate Code is amended to read:

704.2. A claim may be filed by the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse for the payment of the debts of the deceased spouse described in Section 205. The claim must be filed prior to the filing of a petition for final distribution. It shall set forth the reason why the debts are not barred by subdivision (b) of Section 205 and a statement whether the debts remain unpaid or have been paid by the surviving spouse. If the surviving spouse is personally liable for the debts, the claim shall also include an inventory of the separate property of the surviving spouse and any community property not administered in the estate and a statement of the value of the property less the amount of the liens and encumbrances upon the property as of the date of death of the deceased spouse. The statement may identify any property which is exempt from execution.

SEC. 104 Section 704.4 of the Probate Code is amended to read:

704 4. If any community property is administered in the estate, the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file a claim against the estate for the payment of the debts of the

surviving spouse for which the community property is liable. The claim must be filed prior to the filing of a petition for final distribution. It shall include a statement whether the debts remain unpaid or have been paid by the surviving spouse. It shall also include an inventory of the separate property of the surviving spouse and any community property not administered in the estate and a statement of the value of the property less the amount of the liens and encumbrances upon the property as of the date of death of the deceased spouse. The statement may identify any property which is exempt from execution.

SEC. 105. Section 932 of the Probate Code is amended to read:

932. (a) If the executor or administrator dies or becomes incompetent, his accounts may be presented by his personal representative or conservator to, and settled by, the court in which the estate of which he was executor or administrator is being administered, and, upon petition of the successor of the deceased or incompetent executor or administrator, the court shall compel the personal representative or conservator of the deceased or incompetent executor or administrator to render an account of the administration of his testator or intestate, and must settle the account as in other cases.

(b) In the event the executor or administrator dies or becomes incompetent and there is no personal representative or conservator appointed for his estate, or he absconds, then the court may compel the attorney for the absconding, deceased, or incompetent executor or administrator or attorney of record in the estate proceeding to render an account of the administration of the absconding, deceased or incompetent executor or administrator to the extent that the attorney has information or records available to him for the purpose. The account of the attorney need not be verified. A fee shall be allowed to the attorney by the court for this extraordinary service.

SEC. 106. Section 1200 of the Probate Code is amended to read:

1200. Upon the filing of the following petitions:

(1) A petition under Section 641 of this code for the setting aside of an estate;

(2) A petition to set apart a homestead or exempt property;

(3) A petition relating to the family allowance filed after the return of the inventory;

(4) A petition for leave to settle or compromise a claim against a debtor of the decedent or a claim against the estate or a suit against the executor or administrator as such;

(5) A petition for the sale of stocks or bonds;

(6) A petition for confirmation of a sale or a petition to grant an option to purchase real property;

(7) A petition for leave to enter into an agreement to sell or give an option to purchase a mining claim or real property worked as a mine;

(8) A petition for leave to execute a promissory note or mortgage or deed of trust or give other security;

(9) A petition for leave to lease or to exchange property, or to institute an action for the partition of property;

(10) A petition for an order authorizing or directing the investment of money;

(11) A report of appraisers concerning a homestead;

(12) An account of an executor or administrator or trustee;

(13) A petition for partial or ratable or preliminary or final distribution;

(14) A petition for the delivery of the estate of a nonresident,

(15) A petition for determination of heirship or interests in an estate;

(16) A petition of a trustee for instructions;

(17) A petition for the appointment of a trustee;

(18) Any petition for letters of administration or for probate of will, or for letters of administration-with-will annexed, which is filed after letters of administration or letters testamentary have once been issued; and in all cases in which notice is required and no other time or method is prescribed by law or by court or judge, the clerk shall set the same for hearing by the court and shall give notice of the petition or application or report or account by causing a notice of the time and place of hearing thereof to be posted at the courthouse of the county where the proceedings are pending, at least 10 days before the day of hearing, giving the name of the estate, the name of the petitioner and the nature of the application, referring to the petition for further particulars, and stating the time at which the application will be heard.

At least 10 days before the time set for the hearing of such petition, account or report, the petitioner or person filing the account or desiring the confirmation of a report of appraisers, must cause notice of the time and place of hearing thereof to be mailed to the executor or administrator, when he is not the petitioner, to any coexecutor or coadministrator not petitioning, and to all persons (or to their attorneys, if they have appeared by attorney), who have requested notice or who have given notice of appearance in the estate in person or by attorney, as heir, devisee, legatee or creditor, or as otherwise interested, addressed to them at their respective post office addresses given in their request for special notice, if any, otherwise at their respective offices or places of residence, if known, and if not, at the county seat of the county where the proceedings are pending, or to be personally served upon such person

Proof of the giving of notice must be made at the hearing; and if it appears to the satisfaction of the court that said notice has been regularly given, the court shall so find in its order, and such order, when it becomes final, shall be conclusive upon all persons

This section does not apply to proceedings under Division 4 (commencing with Section 1400). When a provision of Division 4 applies the provisions of this code applicable to executors or administrators to proceedings under Division 4, a reference to this section in the provisions applicable to executors or administrators

shall be deemed to be a reference to Chapter 3 (commencing with Section 1460) of Part 1 of Division 4.

SEC. 107. Section 1233 of the Probate Code is amended to read:

1233. Except as otherwise provided by this code or by rules adopted by the Judicial Council, the provisions of Part 2 (commencing with Section 307) and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this code with regard to discovery, trials, new trials, appeals, and all other matters of procedure.

An affidavit or verified petition must be received as evidence when offered in any uncontested probate proceedings, including proceedings relating to the administration of estates of decedents and proceedings relating to the administration of estates of persons for whom a guardian or conservator has been appointed and in uncontested proceedings to establish a record of birth. The evidence of one or more of the subscribing witnesses may be received by an affidavit to which there is attached a photographic copy of the will, in any uncontested will proceedings.

SEC. 108. Section 22707 of the Public Utilities Code is amended to read:

22707. When bonds issued pursuant to this part have been investigated and certified by any authorized officer of the state and are declared to be legal investments for savings banks, they may be purchased or received in pledge for loans by savings banks, building and loan companies, trust companies, insurance companies, guardians, conservators, executors, administrators, and special administrators, or by any public officer of the state or of any county or other municipal or corporate body in the state having or holding funds which they may legally invest or loan.

SEC. 109. Section 612 of the Revenue and Taxation Code is amended to read:

612. When a person is assessed as agent, trustee, bailee, guardian, conservator, executor, or administrator, his representative designation shall be added to his name, and the assessment entered separately from his individual assessment.

SEC. 110. Section 982 of the Revenue and Taxation Code is amended to read:

982. The undistributed or unpartitioned property of deceased persons may be assessed to the heirs, guardians, conservators, executors, or administrators. A payment of taxes by any one of them binds each of the other parties in interest for his proportionate share.

SEC. 111. Section 5140 of the Revenue and Taxation Code is amended to read:

5140. The person who paid the tax, his guardian or conservator, the executor of his will, or the administrator of his estate may bring an action in the superior court against a county or a city to recover a tax which the board of supervisors of the county or the city council of the city has refused to refund on a claim filed pursuant to Article

1 (commencing with Section 5096) of this chapter. No other person may bring such an action; but if another should do so, judgment shall not be rendered for the plaintiff.

SEC. 112. Section 18403 of the Revenue and Taxation Code is amended to read:

18403. If the taxpayer is unable to make his own return (including the return required by Sections 18414, 18414.5, and 18415), the return shall be made by a duly authorized agent or by the guardian or conservator or other person charged with the care of the person or property of the taxpayer

SEC. 113. Section 5021 of the Streets and Highways Code is amended to read:

5021. "Owner" means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the county recorder's office of the county in which the property is situated, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over the same for himself, or as the executor, administrator, guardian, or conservator of the owner. If the property is leased, the possession of the tenant or lessee holding and occupying such property shall be deemed to be the possession of the owner.

SEC 114 Section 10011 of the Streets and Highways Code is amended to read·

10011. "Owner" means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the county recorder's office of the county in which the property is situated, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over the same for himself, or as the executor, administrator, guardian, or conservator of the owner. If the property is leased, the possession of the tenant or lessee holding and occupying such property shall be deemed to be the possession of the owner.

SEC 115. Section 20012 of the Vehicle Code is amended to read

20012. All required accident reports, and supplemental reports, shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department of Motor Vehicles and the Department of the California Highway Patrol, except that the Department of the California Highway Patrol or the law enforcement agency to whom the accident was reported shall disclose the entire contents of the reports, including, but not limited to, the names and addresses of persons involved in, or witnesses to, an accident, the registration numbers and descriptions of vehicles involved, the date, time and location of an accident, all diagrams, statements of the drivers involved in the accident and the statements of all witnesses, to any person who may have a proper interest therein, including, but not limited to, the driver or drivers involved, or the guardian or conservator thereof, the parent of a minor driver, the authorized representative of a driver, or to any person injured therein, the owners of vehicles or property damaged thereby,

persons who may incur civil liability, including liability based upon a breach of warranty arising out of the accident, and any attorney who declares under penalty of perjury that he represents any of the above persons.

SEC. 115.1. Section 20012 of the Vehicle Code is amended to read:

20012. All required accident reports, and supplemental reports, shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department of Motor Vehicles and the Department of the California Highway Patrol, except that the Department of the California Highway Patrol or the law enforcement agency to whom the accident was reported shall disclose the entire contents of the reports, including, but not limited to, the names and addresses of persons involved in, or witnesses to, an accident, the registration numbers and descriptions of vehicles involved, the date, time and location of an accident, all diagrams, statements of the drivers involved in the accident and the statements of all witnesses, to any person who may have a proper interest therein, including, but not limited to, the driver or drivers involved, or the guardian or conservator thereof, the parent of a minor driver, the authorized representative of a driver, or to any person injured therein, the owners of vehicles or property damaged thereby, persons who may incur civil liability, including liability based upon a breach of warranty arising out of the accident, and any attorney who declares under penalty of perjury that he represents any of the above persons.

A request for a copy of an accident report shall be accompanied by payment of a fee, provided such fee shall not exceed the cost of providing such copy.

SEC. 116. Section 9334 of the Water Code is amended to read:

9334. Guardians, conservators, executors, administrators and other persons holding land in a trust capacity under appointment of court may vote at the election without obtaining special authority therefor.

SEC 117. Section 9403 of the Water Code is amended to read:

9403. The bonds of the drainage district issued pursuant to this part which are investigated and approved by any commission or officer authorized by any law of this state to conduct the investigation and give the approval and by authority of which approval the bonds are declared to be legal investments for savings banks, may be lawfully purchased or received in pledge for loans by any of the following who hold funds which they are permitted by law to invest or loan:

(a) Banks.
(b) Trust companies.
(c) Insurance companies.
(d) Guardians and conservators.
(e) Executors
(f) Administrators and special administrators.
(g) Any public officer or officers of this state or of any county, city,

or city and county, or other municipality or corporate body within this state.

SEC. 118. Section 20527.5 of the Water Code is amended to read:

20527.5. Notwithstanding Section 20527, or any other provision of law to the contrary, in the Jackson Valley Irrigation District every owner of real property within the district, but no others, may vote at elections for directors or otherwise. Such owners need not be residents of the district in order to qualify as voters. The last equalized assessment book of the district is conclusive evidence of the ownership of real property so owned, except that in the event that an assessment for a district shall not have been made and levied for the year in which the election is held or an equalized assessment book prepared, the last equalized county assessment roll shall be used in lieu of the assessment book of the district. Where land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of such land shall designate in writing which one of the owners shall be deemed the owner of such land for purposes of qualifying as a voter.

The legal representative of a corporation or estate owning real property may vote on behalf of such corporation or estate. As used in this section, legal representative means an official of a corporation owning real property, and means a guardian, conservator, executor, or administrator of the estate of the holder of title to real property who·

(a) Is appointed under the laws of this state.

(b) Is entitled to the possession of the estate's real property.

(c) Is authorized by the appointing court to exercise the particular right, privilege, or immunity which he seeks to exercise

Before a legal representative votes at a district election he shall present to the precinct board a certified copy of his authority which shall be kept and filed with the returns of the election.

SEC. 119. Section 20527.6 of the Water Code is amended to read:

20527 6. Notwithstanding Section 20527, or any other provision of law to the contrary, in the Camp Far West Irrigation District in Placer and Yuba Counties "elector" and "voter" shall mean a person, corporation, or other entity owning land within the district. At any district election in the Camp Far West Irrigation District, only landowners may vote, and they need not be residents of the district in order to qualify as voters. Each landowner shall have one vote for each dollar's worth of land to which he holds title The last equalized assessment book of the district shall be conclusive evidence of ownership and of the value of the land so owned, except that in the event that an assessment for the district shall not have been made and levied for the year in which the election is held, the last equalized assessment roll of the county in which the land is located shall be used in lieu of the assessment book of the district. Where land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of such land may designate in writing which one of the owners shall be deemed the owner of such land for

purposes of qualifying as a voter. In the absence of such designation each owner shall be entitled to vote his pro rata share of the total value of the land in such multiple ownership.

Every landowner, or the legal representative of a corporation, estate or trust owning land within the district, may vote at any district election, either in person or by a person duly appointed as his proxy.

As used in this section, "legal representative" means any of the following:

(a) An authorized official of a corporation owning land in the district.

(b) The trustees of an express trust which owns land in the district

(c) The executor, administrator, guardian of the estate, or conservator of the estate of a holder of title to land in the district who is appointed under the laws of this state, is entitled to possession of such land, and who is authorized by the appointing court to vote in the election

Before a legal representative votes at a district election, he shall present to the precinct board a certified copy of his authority, which shall be kept and filed with the returns of the election No appointment of a proxy shall be valid, accepted or vote allowed thereon at any district election unless it meets all the following requirements:

(a) It is in writing.

(b) It is executed by the person or legal representative of the person who is entitled to the votes for which the proxy is given.

(c) It is acknowledged.

(d) It specifies the election at which it is to be used. An appointment of a proxy shall be used only at the election specified.

Every appointment of a proxy is revocable at the pleasure of the person executing it at any time before the person appointed as proxy shall have cast a ballot representing the votes for which the appointment was given.

SEC. 120 Section 20527.7 of the Water Code is amended to read:

20527.7. Notwithstanding Section 20527, or any other provision of law, in the Montague Water Conservation District in Siskiyou County every owner of real property within the district, but no others, may vote at elections for directors or otherwise Such owners need not be residents of the district in order to qualify as voters. The last equalized county assessment role is conclusive evidence of ownership of the real property so owned Where land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of such land shall designate in writing which one of the owners shall be deemed the owner of such land for purposes of qualifying as a voter.

The legal representative of a corporation or estate owning real property may vote on behalf of such corporation or estate. As used in this section, legal representative means an official of a corporation

owning real property or a guardian, conservator, executor, or administrator of the estate of the holder of title to real property who:

(a) Is appointed under the laws of this state.

(b) Is entitled to the possession of the estate's real property.

(c) Is authorized by the appointing court to exercise the particular right, privilege, or immunity which he seeks to exercise. Before a legal representative votes at a district election, he shall present to the precinct board a certified copy of his authority which shall be kept and filed with the returns of the election.

Every voter, or his legal representative, may vote at any district election either in person or by a person duly appointed as his proxy, but shall be entitled to cast only one vote. The appointment of a proxy shall be as provided in Section 35005.

Notwithstanding Section 21100 or any other provision of law, any voter as defined in this section is eligible to be a member of the Board of Directors of the Montague Water Conservation District.

SEC. 121. Section 20527.8 of the Water Code is amended to read:

20527.8. Notwithstanding Section 20527, or any other provision of law, in the Cordua Irrigation District every owner of land within the district, but no others, may vote at elections for directors or otherwise. Such owners need not be residents of the district in order to qualify as voters. Each voter shall be entitled to cast one vote for each one hundred dollars ($100) of assessed valuation of land to which he has title. The last equalized county assessment role is conclusive evidence of ownership and of the value of the land so owned. Where land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of such land shall designate in writing which one of the owners shall be deemed the owner of such land for purposes of qualifying as a voter.

The legal representative of a corporation or estate owning real property may vote on behalf of such corporation or estate. As used in this section, legal representative means an official of a corporation owning real property or a guardian, conservator, executor, or administrator of the estate of the holder of title to real property who:

(a) Is appointed under the laws of this state.

(b) Is entitled to the possession of the estate's real property.

(c) Is authorized by the appointing court to exercise the particular right, privilege, or immunity which he seeks to exercise. Before a legal representative votes at a district election, he shall present to the precinct board a certified copy of his authority which shall be kept and filed with the returns of the election.

Every voter, or his legal representative, may vote at any district election either in person or by a person duly appointed as his proxy. The appointment of a proxy shall be as provided in Section 35005.

Notwithstanding Section 21100 or any other provision of law, any voter as defined in this section is eligible to be a member of the Board of Directors of the Cordua Irrigation District or to serve as an elective officer of the district.

SEC. 122 Section 20527.9 of the Water Code is amended to read:

20527.9. Notwithstanding Section 20527, or any other provision of law, in the Provident Irrigation District in Glenn and Colusa Counties every owner of real property within the district, but no others, may vote at elections for directors or otherwise. Such owners need not be residents of the district in order to qualify as voters. The last equalized county assessment role is conclusive evidence of ownership of the real property so owned. Where land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of such land shall designate in writing which one of the owners shall be deemed the owner of such land for purposes of qualifying as a voter.

The legal representative of a corporation or estate owning real property may vote on behalf of such corporation or estate. As used in this section, legal representative means an official of a corporation owning real property or a guardian, conservator, executor, or administrator of the estate of the holder of title to real property who:

(a) Is appointed under the laws of this state.

(b) Is entitled to the possession of the estate's real property.

(c) Is authorized by the appointing court to exercise the particular right, privilege, or immunity which he seeks to exercise. Before a legal representative votes at a district election, he shall present to the precinct board a certified copy of his authority which shall be kept and filed with the returns of the election.

Every voter, or his legal representative, may vote at any district election either in person or by a person duly appointed as his proxy, but shall be entitled to cast only one vote. The appointment of a proxy shall be as provided in Section 35005.

Notwithstanding Section 21100 or any other provision of law, any voter as defined in this section is eligible to be a member of the Board of Directors of the Provident Irrigation District.

SEC. 123. Section 20566 of the Water Code is amended to read:

20566. A guardian, conservator, executor, administrator, or other person holding property in a trust capacity under appointment of court may sign any petition provided for in this division, when authorized by an order of court, which order may be made without notice.

SEC. 124. Section 39055 of the Water Code is amended to read:

39055. Guardians, conservators, personal representatives, and other persons holding land in a trust capacity under appointment of court may sign any petition and may vote at any election in behalf of the estate represented by them without obtaining special authority

SEC. 125 Section 39058 of the Water Code is amended to read:

39058. As to any land belonging to a person under guardianship or conservatorship or comprised in the undistributed estate of a decedent, the guardian or conservator of such person or executor or administrator of such estate shall be deemed the holder of title for the purpose of representing the same in all proceedings under this division, and has the right to sign all petitions or protests provided

for in this division, and to vote at all district elections, without any order of court authorizing him so to do.

SEC. 126. Section 41003 of the Water Code is amended to read:

41003. Any guardian, conservator, administrator, or executor, of a person or estate owning land within the district shall be considered the holder of title to land for the purposes of this division, where the owner in fee is not entitled to vote.

SEC. 127 Section 50170 of the Water Code is amended to read:

50170. Guardians, conservators, executors, administrators and other persons holding land in a trust capacity under appointment of court may sign petitions or bylaws or vote without obtaining special authority therefor. Corporation landowners may sign petitions or bylaws or vote by action of their legal representatives.

SEC 128. Section 52228 of the Water Code is amended to read:

52228. Bonds issued pursuant to this chapter which have been investigated and certified by any officer of this state authorized to make such investigation and certification, and declared to be legal for investments by savings banks of the state, may be purchased, or received in pledge for loans by savings banks, trust companies, insurance companies, guardians, conservators, executors, administrators and special administrators, or by any public officer or officers of this state or of any county, city, or other municipal or corporate body within this state having or holding funds which they are authorized to invest or loan.

SEC. 129. Section 4120 of the Welfare and Institutions Code is amended to read:

4120. Except as otherwise provided in this section in determining residence for purposes of being entitled to hospitalization in this state and for purposes of returning patients to the states of their residence, an adult person who has lived continuously in this state for a period of one year and who has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state shall be deemed to be a resident of this state. Except as otherwise provided in this section a minor is entitled to hospitalization in this state if the parent or guardian or conservator having custody of the minor has lived continuously in this state for a period of one year and has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state. Such parent, guardian, or conservator shall be deemed a resident of this state for the purposes of this section, and such minor shall be eligible for hospitalization in this state as a mentally disordered person The eligibility of such minor for hospitalization in this state ceases when such parent, guardian, or conservator ceases to be a resident of this state and such minor shall be transferred to the state of residence of the parent, guardian, or conservator in accordance with the applicable provisions of this code. Time spent in a public institution for the care of the mentally disordered or developmentally disabled or on leave of absence therefrom shall not be counted in determining the matter of

residence in this or another state.

Residence acquired in this or in another state shall not be lost by reason of military service in the armed forces of the United States.

SEC. 130. Section 4426 of the Welfare and Institutions Code is amended to read:

4426. The department may inquire into the manner in which any mentally retarded person subject to commitment, not confined in a state hospital, is cared for and maintained. If, in its judgment, any such person is not properly and suitably cared for, it may apply to a judge of the superior court for an order to commit him to a state hospital under the provisions of this code. Such order shall not be made unless the judge finds, and certifies in the order, that such person is not properly or suitably cared for by his relatives or guardian or conservator, or that it is dangerous to the public to allow him to be cared for and maintained by such relatives or guardian or conservator.

SEC. 131 Section 4460 of the Welfare and Institutions Code is amended to read:

4460. In order to be entitled to hospitalization in this state, an adult developmentally disabled person or the parent or guardian or conservator of a developmentally disabled minor shall be a state resident. Residence acquired in this or in another state shall not be lost by reason of military service in the armed forces of the United States.

SEC. 132. Section 4508 of the Welfare and Institutions Code is amended to read:

4508. Developmentally disabled persons may be released from state hospitals for provisional placement, with parental consent in the case of a minor or with the consent of an adult developmentally disabled person or with the consent of the guardian or conservator of the developmentally disabled person, not to exceed six months, and shall be referred to a regional center for services pursuant to this division. Any person placed pursuant to this section shall have an automatic right of return to the state hospital during the period of provisional placement.

SEC 133. Section 4535 of the Welfare and Institutions Code is amended to read:

4535. The state council shall meet at least monthly, and, on call of its chairperson, as often as necessary to fulfill its duties All meetings and records of the state council shall be open to the public.

The state council shall, by majority vote of the voting members, elect its own chairperson from among the nine appointed members, and shall establish such committees as it deems necessary or desirable The chairperson shall appoint all members of committees of the state council.

The state council may appoint technical advisory consultants and may establish committees composed of professional persons serving persons with developmental disabilities as necessary for technical assistance. The state council may call upon representatives of all

agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians or conservators, professionals, or members of the general public to participate on state council committees.

On March 1, 1977, the existing State Developmental Disabilities Planning and Advisory Council shall terminate and all of its records and documents shall be transferred to the new State Council on Developmental Disabilities established by this chapter.

SEC. 134. Section 4576 of the Welfare and Institutions Code is amended to read:

4576. The governing bodies of the counties in each area shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(a) Persons with developmental disabilities or the parents or guardians or conservators of such persons—50 percent;

(b) Representatives of the general public—50 percent.

SEC. 135. Section 4586 of the Welfare and Institutions Code is amended to read:

4586. Each area board shall, by majority vote of the voting members, elect its own chairperson from among the appointed members, and shall establish such committees as it deems necessary or desirable. The board chairperson shall appoint all members of committees of the area board.

An area board shall appoint a professional advisory committee composed of professional persons serving individuals with developmental disabilities. The professional advisory committee shall provide advice, guidance, recommendations, and technical assistance to the area board in order to assist the area board in carrying out its mandated functions enumerated in Article 4 (commencing with Section 4590) of this chapter. Such professional advisory committee shall designate one of its members to serve as an ex officio member of the area board. An area board may call upon representatives of all agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians or conservators, professionals or members of the general public to participate on area board committees.

SEC. 136. Section 4642 of the Welfare and Institutions Code is amended to read:

4642. Any person believed to have a developmental disability, and any person believed to be a high risk of parenting a disabled infant, shall be eligible for initial intake and assessment services in the regional centers

Initial intake shall be performed within 15 working days following request for assistance. Initial intake shall include, but need not be limited to, information and advice about the nature and availability of services provided by the regional center and by other agencies in the community, including guardianship, conservatorship, income maintenance, mental health, housing, education, work activity and

vocational training, medical, dental, recreational, and other services or programs that may be useful to persons with developmental disabilities or their families. Intake shall also include a decision to provide assessment.

SEC. 137. Section 4655 of the Welfare and Institutions Code is amended to read:

4655. The director of a regional center or his designee may give consent to medical, dental, and surgical treatment of a regional center client and provide for such treatment to be given to the person under the following conditions:

(a) If the developmentally disabled person's parent, guardian, or conservator legally authorized to consent to such treatment does not respond within a reasonable time to the request of the director or his designee for the granting or denying of consent for such treatment, the director of a regional center or his designee may consent on behalf of the developmentally disabled person to such treatment and provide for such treatment to be given to such person.

(b) If the developmentally disabled person has no parent, guardian, or conservator legally authorized to consent to medical, dental, or surgical treatment on behalf of the person, the director of the regional center or his designee may consent to such treatment on behalf of the person and provide for such treatment to be given to the person. The director of a regional center or his designee may thereupon also initiate, or cause to be initiated, proceedings for the appointment of a guardian or conservator legally authorized to consent to medical, dental, or surgical services.

(c) If the developmentally disabled person is an adult and has no conservator, consent to treatment may be given by someone other than the person on the person's behalf only if the developmentally disabled person is mentally incapable of giving his own consent.

SEC. 138. Section 4700 of the Welfare and Institutions Code is amended to read:

4700. On and after July 1, 1977, every public or private agency that receives state funds to provide services for persons with developmental disabilities shall, as a condition of continued receipt of such funds, have an agency fair hearing procedure for resolving conflicts between the agency and consumers or potential consumers of service.

Any agency that employs a fair hearing procedure mandated by any other statute shall be considered to have an approved procedure for purposes of this chapter.

The service agency's fair hearing procedure shall be stated in writing, in English and such other language as may be appropriate to the needs of the consumers of the agency's service. All consumers currently receiving services as persons with developmental disabilities or their legally responsible relatives, guardians, conservators, or anyone having legal custody of a developmentally disabled person, and all such persons formally applying for service shall be informed verbally of, and shall be notified in writing in a

language which they comprehend of, the agency's fair hearing procedure. A copy of the procedure and a copy of the provisions of this chapter shall be prominently displayed on the premises of the agency.

SEC. 139. Section 4701 of the Welfare and Institutions Code is amended to read:

4701. The service agency's fair hearing procedure shall meet the following minimum requirements:

(a) Any person with developmental disabilities, or who is believed to have a developmental disability, or the parent, guardian, conservator, anyone having legal custody, or other representative acting on behalf of such person shall have the opportunity to request a fair hearing to contest the decision of any agency which he believes to be illegal, unjust, discriminatory, or not in the best interest of the person with developmental disabilities. The request for a fair hearing shall be stated in writing on an appeal for fair hearing form to be provided by the agency.

If any person makes a verbal request for a fair hearing, the employee of the agency who hears the request shall provide the person with an appeal for fair hearing form and shall assist the person in filling out such form if the person requires or requests assistance. Any employee who willfully fails to comply with this requirement shall be guilty of a misdemeanor.

(b) The agency's procedures for responding to a request for a fair hearing shall be informal and shall result in a written decision by the agency within 30 days from the date of submission of the request for fair hearing form.

(c) Requests for a fair hearing shall be directed to the director of the agency. Upon receipt by the agency director, or his designated representative, of a request for a fair hearing submitted by a person with developmental disabilities, his parent, guardian, conservator, or other representative, shall within 10 days of receipt of such request:

(1) Meet with the person requesting the fair hearing in an attempt to settle the grievance. Such person shall have the right to examine any documents contained in the developmentally disabled person's agency file, provided that the written consent of the person with developmental disabilities must be secured therefor in the case of a developmentally disabled adult who is not under conservatorship.

(2) If it is determined that the grievance has merit, the agency director may rule in favor of the person who requested the fair hearing

(3) If the agency director fails to resolve the grievance to the satisfaction of the person who requested the fair hearing, the agency director shall commence the fair hearing procedure.

(d) The person with developmental disabilities and the parent, guardian, or conservator of such person shall be given written notice in a language which they comprehend of all fair hearing and review proceedings that the agency may conduct, shall be permitted to have

with them any representative they may wish to have assist them in presenting their grievance. Fair hearing proceedings shall be conducted at such times and places as to permit the participation of the person who requested the review.

The person who makes the appeal and his representative shall have access to any records in possession of the agency which may have a bearing on the issues being contested.

SEC. 140. Section 4725 of the Welfare and Institutions Code is amended to read:

4725. At any stage in the appeals procedure, the person with developmental disabilities or the parents or guardian or conservator of such person shall have the right to be represented, at their own expense, by the person or persons of their choice including, but not limited to, private legal counsel, legal aid societies, or citizen advocacy organizations.

SEC. 141 Section 4800 of the Welfare and Institutions Code is amended to read:

4800 Every adult who is or has been admitted or committed to a state hospital, community care facility as defined in Section 1504 of the Health and Safety Code, or health facility as defined in Section 1250 of the Health and Safety Code, as a developmentally disabled patient shall have a right to a hearing by writ of habeas corpus for his release from the hospital, community care facility or health facility after he or any person acting on his behalf makes a request for release to any member of the staff of the state hospital, community care facility or health facility or to any employee of a regional center.

The member of the staff or regional center employee to whom a request for release is made shall promptly provide the person making the request for his signature or mark a copy of the form set forth below. The member of the staff, or regional center employee, as the case may be, shall fill in his own name and the date, and, if the person signs by mark, shall fill in the person's name, and shall then deliver the completed copy to the medical director of the state hospital, the administrator or director of the community care facility or the administrator or director of the health facility, as the case may be, or his designee, notifying him of the request As soon as possible, the person notified shall inform the superior court for the county in which the state hospital, community care facility, or health facility is located of the request for release and shall transmit a copy of the request for release to the person's parent or conservator together with a statement that notice of judicial proceedings taken pursuant to such request will be forwarded by the court. The copy of the request for release and such notice shall be sent by the person notified by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested. The person notified shall also transmit a copy of the request for release and the name and address of the person's parent or conservator to the court

Any person who intentionally violates this section is guilty of a misdemeanor.

The form for a request for release shall be substantially as follows:

(Name of the state hospital, community care facility, or health facility or regional center) _____ day of _____ 19__

I, _____ (member of the staff of the state hospital, community care facility, or health facility or employee of the regional center), have today received a request for the release from _____ (name of state hospital) State Hospital, community care facility, or health facility of _____ (name of patient) from the undersigned patient on his own behalf or from the undersigned person on behalf of the patient.

_____

Signature or mark of patient making request for release

_____

Signature or mark of person making request on behalf of patient

SEC. 142. Section 4801 of the Welfare and Institutions Code is amended to read:

4801. Judicial review shall be in the superior court for the county in which the state hospital, community care facility, or health facility is located. The adult requesting to be released shall be informed of his right to counsel by a member of the staff of the state hospital, community care facility, or health facility and by the court; and if he does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to assist him in preparation of a petition for the writ of habeas corpus and to represent him in the proceedings. The person shall pay the costs of such legal service if he is able.

At the time the petition for the writ of habeas corpus is filed with the court, the clerk of the court shall transmit a copy of the petition, together with notification as to the time and place of any evidentiary hearing in the matter, to the parent or conservator of the person seeking release or for whom release is sought and to the director of the appropriate regional center. Such notice shall be sent by registered or certified mail with proper postage prepaid addressed to the addressee's last known address and with a return receipt requested.

The court shall either release the adult or order an evidentiary hearing to be held not sooner than five judicial days nor more than 10 judicial days after the petition and notice to the adult's parent or conservator and to the director of the appropriate regional center are deposited in the United States mail pursuant to this section. If the court finds (a) that the adult requesting release or for whom release is requested is not developmentally disabled, or (b) that he is developmentally disabled and that he is able to provide safely for his basic personal needs for food, shelter, and clothing, he shall be immediately released. If the court finds that he is developmentally

disabled and that he is unable to provide safely for his basic personal needs for food, shelter, or clothing, but that a responsible person or a regional center or other public or private agency is willing and able to provide therefor, the court shall release the developmentally disabled adult to such responsible person or regional center or other public or private agency, as the case may be, subject to any conditions which the court deems proper for the welfare of the developmentally disabled adult and which are consistent with the purposes of this division.

If in any proceeding under this section, the court finds that the adult is developmentally disabled and has no parent or conservator, and is in need of a conservator, the court shall order the appropriate regional center or the state department to initiate, or cause to be initiated, proceedings for the appointment of a conservator for the developmentally disabled adult.

SEC. 143. Section 4802 of the Welfare and Institutions Code is amended to read:

4802. This chapter shall not be construed to impair the right of a conservator of an adult developmentally disabled patient to remove the patient from the state hospital at any time pursuant to Section 4825.

SEC. 144. Section 4825 of the Welfare and Institutions Code is amended to read:

4825. This chapter shall not be construed to terminate any appointment of the State Department of Mental Health as guardian of a developmentally disabled person prior to July 1, 1971.

It is the intent of this section that the Director of Developmental Services be appointed as guardian or conservator of a developmentally disabled person as provided, pursuant to the provisions of Article 7.5 (commencing with Section 416) of Chapter 2, Part 1, Division 1 of the Health and Safety Code.

Notwithstanding Section 6000, the admission of an adult developmentally disabled person to a state hospital or private institution shall be upon the application of the person's parent or conservator in accordance with the provisions of Sections 4563 and 4803. Any person so admitted to a state hospital may leave the state hospital at any time, if such parent or conservator gives notice of his desire for the departure of the developmentally disabled person to any member of the hospital staff and completes normal hospitalization departure procedures.

Notwithstanding the provisions of Section 4566, any adult developmentally disabled person who is competent to do so may apply for and receive any services provided by a regional center.

SEC. 145. Section 5350 of the Welfare and Institutions Code is amended to read:

5350. A conservator of the person, of the estate, or of the person and the estate may be appointed for any person who is gravely disabled as a result of mental disorder or impairment by chronic alcoholism.

The procedure for establishing, administering and terminating conservatorship under this chapter shall be the same as that provided in Division 4 (commencing with Section 1400) of the Probate Code, except as follows:

(a) A conservator may be appointed for a gravely disabled minor.

(b) Appointment of a conservator under this part shall be subject to the list of priorities in Section 1812 of the Probate Code unless the officer providing conservatorship investigation recommends otherwise to the superior court.

(c) When a gravely disabled person already has a guardian or conservator, the superior court may appoint him or another person as conservator under the provisions of this chapter.

(d) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue whether he is gravely disabled. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5365, such demand shall constitute a waiver of the hearing.

Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee.

This right shall also apply in subsequent proceedings to reestablish conservatorship.

(e) Conservatorship investigation shall be conducted pursuant to this part and shall not be subject to Section 1826 or Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of the Probate Code.

(f) As otherwise provided in this chapter.

SEC. 146. Section 5352 of the Welfare and Institutions Code is amended to read:

5352. When the professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment determines that a person in his care is gravely disabled as a result of mental disorder or impairment by chronic alcoholism and is unwilling to accept, or incapable of accepting, treatment voluntarily, he may recommend conservatorship to the officer providing conservatorship investigation of the county of residence of the person prior to his admission as a patient in such facility.

The professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment may recommend conservatorship for a person without the person being an inpatient in such facility, if both of the following conditions are met: (a) the professional person or another professional person designated by him has examined and evaluated the person and determined that he is gravely disabled; (b) the professional person or another professional person designated by him has determined that future examination on an inpatient basis is not necessary for a

determination that the person is gravely disabled.

If the officer providing conservatorship investigation concurs with the recommendation, he shall petition the superior court in the county of residence of the patient to establish conservatorship.

Where temporary conservatorship is indicated, the fact shall be alternatively pleaded in the petition. The officer providing conservatorship investigation or other county officer or employee designated by the county shall act as the temporary conservator.

SEC. 147. Section 5357 of the Welfare and Institutions Code is amended to read:

5357. All conservators of the estate shall have the general powers specified in Chapter 6 (commencing with Section 2400) of Part 4 of Division 4 of the Probate Code and shall have such additional powers specified in Article 11 (commencing with Section 2590) of Chapter 6 of Part 4 of Division 4 of the Probate Code as the court may designate. The report shall set forth which, if any, of the additional powers it recommends. The report shall also recommend for or against the imposition of each of the following disabilities on the proposed conservatee:

(a) The privilege of possessing a license to operate a motor vehicle. If the report recommends against this right and if the court follows the recommendation, the agency providing conservatorship investigation shall, upon the appointment of the conservator, so notify the Department of Motor Vehicles.

(b) The right to enter into contracts. The officer may recommend against the person having the right to enter specified types of transactions or transactions in excess of specified money amounts.

(c) The disqualification of the person from voting pursuant to Section 707.5 of the Elections Code.

(d) The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. The conservatee shall retain all rights specified in Section 5325.

(e) The right to refuse or consent to other medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled which is necessary for the treatment of an existing or continuing medical condition. The report shall include an evaluation of such condition and the current treatment for such condition, if any.

SEC. 148. Section 5360 of the Welfare and Institutions Code is amended to read:

5360. The officer providing conservatorship investigation shall recommend, in his report to the court, for or against imposition of a disability set forth in Section 5357 on the basis of the determination of the professional person who recommended conservatorship pursuant to Section 5352.

The officer providing conservatorship investigation shall recommend in his report any of the additional powers of a conservator set forth in Section 2591 of the Probate Code if the needs of the individual patient or his estate require such powers. In making

such determination, the officer providing conservatorship investigation shall consult with the professional person who recommended conservatorship pursuant to Section 5352.

SEC. 149. Section 6000 of the Welfare and Institutions Code is amended to read:

6000. Pursuant to applicable rules and regulations established by the State Department of Mental Health or the State Department of Developmental Services, the medical director of a state hospital for the mentally disordered or developmentally disabled may receive in such hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(a) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he is in such condition of mind as to render him competent to make it or, if he is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5328 to place his conservatee in a state hospital, by his conservator.

(b) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, conservator, or other person entitled to his custody to any of such mental hospitals as may be designated by the Director of Mental Health or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5328 to place the conservatee in a state hospital the application for the minor shall be made by his conservator.

Any such person received in a state hospital shall be deemed a voluntary patient.

Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of Mental Health or the State Department of Developmental Services the record of such voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of such patient to such hospital, and such other information as is required by the rules and regulations of the department.

The charges for the care and keeping of a mentally disordered person in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Part 4 relating to the charges for the care and keeping of mentally disordered persons in state hospitals.

A voluntary adult patient may leave the hospital or institution at any time by giving notice of his desire to leave to any member of the

hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, conservator, or other person entitled to the custody of the minor, of their desire to remove him from the hospital.

No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his minority shall be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by adult persons.

The State Department of Mental Health or the State Department of Developmental Services shall establish such rules and regulations as are necessary to carry out properly the provisions of this section.

SEC. 150. Section 6502 of the Welfare and Institutions Code is amended to read:

6502. A petition for the commitment of a mentally retarded person to the State Department of Developmental Services may be filed in the superior court of the county in which such person is physically present. The following persons may request the person authorized to present allegations pursuant to Section 6500 to file a petition for commitment:

(a) The parent, guardian, conservator, or other person charged with the support of the mentally retarded person.

(b) The probation officer.

(c) The Youth Authority.

(d) Any person designated for that purpose by the judge of the court.

(e) The Director of Corrections.

(f) The regional center director or his designee.

Such request shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by affidavit.

SEC. 151. Section 6504 of the Welfare and Institutions Code is amended to read:

6504. In all cases the court shall require due notice of the hearing of the petition to be given to the alleged mentally retarded person. Whenever a petition is filed, the court shall require such notice of the hearing of the petition as it deems proper to be given to any parent, guardian, conservator, or other person charged with the support of the person mentioned in the petition.

SEC. 152. Section 6506 of the Welfare and Institutions Code is amended to read:

6506. Pending the hearing the alleged mentally retarded person

may be left in the charge of his parent, guardian, conservator, or other suitable person, or may be placed in a state hospital for the developmentally disabled or in the county psychiatric hospital.

SEC. 153. Section 6508 of the Welfare and Institutions Code is amended to read:

6508. Each psychologist and physician shall receive for each attendance mentioned in Section 6507 the sum of five dollars ($5) for each person examined, together with his necessary actual expenses occasioned thereby, and other witnesses shall receive for such attendance such fees and expenses as the court in its discretion allows, if any, not exceeding the fees and expenses allowed by law in other cases in the superior court.

Any fees or traveling expenses payable to a psychologist, physician, or witness as provided in this section and all expenses connected with the execution of any process under the provisions of this article, which are not paid by the parent, guardian, conservator, or person charged with the support of the supposed mentally retarded person, shall be paid by the county treasurer of the county in which the person resides, upon the presentation to the treasurer of a certificate of the judge that the claimant is entitled thereto.

SEC. 154. Section 6717 of the Welfare and Institutions Code is amended to read:

6717. The cost necessarily incurred in determining whether a person is a fit subject for admission to a home for the mentally retarded and securing his admission thereto, is a charge upon the county whence he is committed. Such costs include the fees of witnesses, medical examiners, psychiatrists and psychologists allowed by the judge ordering the examination. If the person sought to be committed is not an indigent person, the costs of the proceedings are the obligation of such person and shall be paid by him, or by the guardian or conservator of his estate as provided in Division 4 (commencing with Section 1400) of the Probate Code, or shall be paid by persons legally liable for his maintenance, unless otherwise ordered by the judge.

SEC. 155. Section 7104 of the Welfare and Institutions Code is amended to read:

7104. Any adult person detained in such hospital, who is in such condition of mind as to render him competent to make such application shall at his request be exempt from medical or psychiatric treatment, upon filing with the superintendent a statement that he depends upon prayer or spiritual means for healing in the practice of the religion of a well-recognized religious church, sect, denomination, or organization. In case of an adult not found to be in such condition of mind, a similar statement may be filed on his behalf by another and thereupon similar exemption shall be granted. Any minor detained in such hospital shall be exempt from medical or psychiatric treatment if his parent or guardian or conservator shall file with said superintendent an affidavit stating that he relies upon prayer or spiritual means for healing in the

practice of the religion of a well-recognized religious church, sect, denomination or organization.

SEC. 156. Section 7254 of the Welfare and Institutions Code is amended to read:

7254. The provisions of this section apply to any person who has been lawfully committed or admitted to any state hospital for the mentally disordered or mentally retarded and who is afflicted with, or suffers from, any of the following conditions:

(a) Mental disease which may have been inherited and is likely to be transmitted to descendants.

(b) Mental retardation, in any of its various grades.

(c) Marked departures from normal mentality.

The State Department of Mental Health with respect to a patient or resident in a state hospital or home under its jurisdiction, and the State Department of Developmental Services with respect to a patient or resident in a state hospital or home under its jurisdiction, upon compliance with the provisions of this section, may cause any such person to be sterilized by the operation of vasectomy upon the patient if a male and of salpingectomy if a female or any other operation or treatment that will permanently sterilize but not unsex the patient. When the superintendent of the state hospital or state home is of the opinion that a patient who is afflicted with or suffering from any of the conditions specified in this section should be sterilized, he shall certify such opinion to the director of the department having jurisdiction over the hospital or home and shall at the same time give written notice of such certification to the patient and to his known parents, spouse, adult children, guardian, or conservator, if any, by registered mail to their last known address. If the patient has no known relatives or guardian or conservator, such notice shall be given to the person who petitioned for the patient's commitment. Such notice shall further state that written objection or written consent to the proposed sterilization, should be filed with the director of the department having jurisdiction over the hospital or home at his office in Sacramento within 30 days by the patient, spouse, next of kin, guardian, or conservator.

When a written consent is filed, or if no objection is filed within the 30 days, the director of the department having jurisdiction over the hospital or home, if satisfied that the sterilization will not unduly endanger the patient's health and that it is a proper case for sterilization, may authorize the superintendent to proceed with the sterilization of the patient The director may cause such examination of the patient and other inquiry to be made as he deems advisable before issuing the authorization to the superintendent

If a written objection is filed within the 30 days by the patient, his spouse, next of kin, guardian, or conservator, and in those cases where the patient has no known relatives or guardian or conservator, the proposed sterilization shall not be authorized or performed until the director of the department having jurisdiction over the hospital or home has determined the matter. He shall make full inquiry into

the case, and may hold a hearing at the institution at which hearing the patient shall be present, and the objecting party and others interested on behalf of the patient may be heard. If the decision of the director is that the patient shall not be sterilized, he shall so order and notify the superintendent, the patient and the objecting party. If the decision of the director is that the patient should be sterilized, he shall send notice of such decision to the patient, his known parents, spouse, adult children, and guardian or conservator, if any, and the objecting party, by registered mail to their last known address. Such notice shall further state that any such party has the right within 30 days to petition the superior court of the county in which the institution is situated or of the county of the patient's residence for a review of the decision.

If such petition is filed in court within 30 days, and a true copy thereof is served upon the director of the department having jurisdiction over the hospital or home, the patient shall not be sterilized unless and until the court, after hearing, issues an order authorizing the sterilization of the patient in accordance with the provisions of this section. If such petition is not filed in court within 30 days, the director may authorize the superintendent to proceed with such sterilization. The sterilization of a patient in accordance with the provisions of this section, whether performed with or without the consent of the patient, shall be lawful and shall not render the department, its officers or employees, or any persons participating in the operation liable either civilly or criminally.

SEC. 156.5. Section 7254 of the Welfare and Institutions Code is repealed.

SEC. 157. Section 7275 of the Welfare and Institutions Code is amended to read:

7275. The husband, wife, father, mother, or children of a patient in a state hospital for the mentally disordered, the estates of such persons, and the guardian or conservator and administrator of the estate of such patient shall cause him to be properly and suitably cared for and maintained, and shall pay the costs and charges of his transportation to a state institution. The husband, wife, father, mother, or children of a patient in a state hospital for the mentally disordered and the administrators of their estates, and the estate of such person shall be liable for his care, support, and maintenance in a state institution of which he is a patient. The liability of such persons and estates shall be a joint and several liability, and such liability shall exist whether the person has become a patient of a state institution pursuant to the provisions of this code or pursuant to the provisions of Sections 1026, 1368, 1369, 1370, and 1372 of the Penal Code.

This section does not impose liability for the care of mentally retarded persons in state hospitals.

SEC. 158. Section 7279 of the Welfare and Institutions Code is amended to read:

7279. If any person committed to a state mental hospital has

sufficient estate for the purpose, the guardian or conservator of his estate shall pay for his care, support, maintenance, and necessary expenses at the mental hospital to the extent of the estate. Such payment may be enforced by the order of the judge of the superior court where the guardianship or conservatorship proceedings are pending. On the filing of a petition therein by the department showing that the guardian or conservator has failed, refused, or neglected to pay for such care, support, maintenance, and expenses, the court, by order, shall direct the payment by the guardian or conservator. Such order may be enforced in the same manner as are other orders of the court.

If at any time there is not sufficient money on hand in the estate of a committed person to pay the claim of a state mental hospital for his care, support, maintenance, and expenses therein, the court may, on petition of the guardian or conservator of the estate, or if the guardian or conservator fails, refuses, or neglects to apply, on the petition of the department, make an order directing the guardian or conservator to sell so much of the other personal or real property or both, of the person as is necessary to pay for the care, support, maintenance, and expenses of the person at the mental hospital. From the proceeds of such sale, the guardian or conservator shall pay the amount due for the care, support, maintenance, and expenses at the mental hospital, and also such other charges as are allowed by law.

Payment for the care, support, maintenance, and expenses of person at a state hospital shall not be exacted, however, if there is likelihood of the patient's recovery or release from the hospital and payment will reduce his estate to such an extent that he is likely to become a burden on the community in the event of his discharge from the hospital. If a certificate from the medical superintendent of the state hospital in which the person is confined as a patient is filed in the office of the county clerk with the papers in the guardianship or conservatorship proceedings of the patient, in which certificate the medical superintendent states that the patient is suffering from a chronic form of mental disorder and that in his opinion a recovery is beyond reasonable hope and that the patient will in all probability continue to be a charge in a state hospital until death, such certificate shall be prima facie evidence that the patient is not likely to recover or to be released from the hospital, and the guardian or conservator shall pay the amount due for his care, support, maintenance, and expenses at the hospital and such other charges as are allowed by law out of any moneys of the estate in his possession.

SEC. 159. Section 7280 of the Welfare and Institutions Code is amended to read:

7280. The guardian or conservator of the estate of any person who is confined in a state mental hospital may, from time to time, pay to the state mental hospital moneys out of the estate to be used for the future personal needs of the mentally disordered person while in a state mental hospital and for burial expenses, such sums so paid

to be credited to the patient's personal deposit account, subject to the provision relating to the deposit of funds in the patients' personal deposit fund.

SEC. 160. Section 7281 of the Welfare and Institutions Code is amended to read:

7281. There is at each institution under the jurisdiction of the State Department of Mental Health and at each institution under the jurisdiction of the State Department of Developmental Services, a fund known as the patients' personal deposit fund. Any funds coming into the possession of the superintendent, belonging to any patient in that institution, shall be deposited in the name of that patient in the patients' personal deposit fund, except that if a guardian or conservator of the estate is appointed for the patient then he shall have the right to demand and receive such funds. Whenever the sum belonging to any one patient, deposited in the patients' personal deposit fund, exceeds the sum of five hundred dollars ($500), the excess may be applied to the payment of the care, support, maintenance and medical attention of the patient. After the death of the patient any sum remaining in his personal deposit account in excess of burial costs may be applied for payment of care, support, maintenance and medical attention. Any of the funds belonging to a patient deposited in the patients' personal deposit fund may be used for the purchase of personal incidentals for the patient or may be applied in an amount not exceeding five hundred dollars ($500) to the payment of his burial expenses.

SEC. 161. Section 7282 of the Welfare and Institutions Code is amended to read:

7282. The State Department of Mental Health with respect to a state hospital under its jurisdiction, or the State Department of Developmental Services with respect to a state hospital under its jurisdiction, may in its own name bring an action to enforce payment for the cost and charges of transportation of a person to a state hospital against any person, guardian, conservator, or relative liable for such transportation. The department also may in its own name bring an action to recover for the use and benefit of any state hospital or for the state the amount due for the care, support, maintenance, and expenses of any patient therein, against any county, or officer thereof, or against any person, guardian, conservator, or relative, liable for such care, support, maintenance, or expenses.

SEC 162. Section 7284 of the Welfare and Institutions Code is amended to read:

7284 If any incompetent person, who has no guardian or conservator of the estate and who has been admitted or committed to the State Department of Mental Health for placement in any state hospital for the mentally disordered or the mentally retarded is the owner of any property, the State Department of Mental Health, acting through its designated officer, may apply to the superior court of any county for its appointment as guardian or conservator of the estate of such incompetent person.

For the purposes of this section, the State Department of Mental Health is hereby made a corporation and may act as executor, administrator, guardian or conservator of estates, assignee, receiver, depositary or trustee, under appointment of any court or by authority of any law of this state, and may transact business in such capacity in like manner as an individual, and for this purpose may sue and be sued in any of the courts of this state.

If a person admitted or committed to the State Department of Mental Health dies, leaving any estate, and having no relatives at the time residing within this state, the State Department of Mental Health may apply for letters of administration of his estate, and, in the discretion of the court, letters of administration may be issued to the department. When the State Department of Mental Health is appointed as guardian, conservator, or administrator, the department shall be appointed as guardian, conservator, or administrator without bond. The officer designated by the department shall be required to give a surety bond in such amount as may be deemed necessary from time to time by the director, but in no event shall the initial bond be less than ten thousand dollars ($10,000), which bond shall be for the joint benefit of the several estates and the State of California. The State Department of Mental Health shall receive such reasonable fees for its services as such guardian, conservator, or administrator as the court allows. The fees paid to the State Department of Mental Health for its services as guardian, conservator, or administrator of the various estates may be used as a trust account from which may be drawn expenses for filing fees, bond premiums, court costs, and other expenses required in the administration of the various estates. Whenever the balance remaining in such trust fund account shall exceed a sum deemed necessary by the department for the payment of such expenses, such excess shall be paid quarterly by the department into the State Treasury to the credit of the General Fund.

SEC. 163. Section 7285 of the Welfare and Institutions Code is amended to read:

7285 The State Department of Mental Health may invest funds held as executor, administrator, guardian or conservator of estates, or trustee, in bonds or obligations issued or guaranteed by the United States or the State of California. Such investments may be made and such bonds or obligations may be sold or exchanged for similar bonds or obligations without notice or court authorization.

SEC. 164. Section 7286 of the Welfare and Institutions Code is amended to read:

7286. The State Department of Mental Health may establish one or more common trusts for investment of funds held as executor, administrator, guardian or conservator of estates, or trustee and may designate from time to time the amount of participation of each estate in such trusts. The funds in such trusts may be invested only in bonds or obligations issued or guaranteed by the United States or the State of California

The income and profits of each trust shall be the property of the estates participating and shall be distributed, when received, in proportion to the amount of participation of each estate in such trust. The losses of each trust shall be the losses of the estates participating and shall be apportioned, as the same occur, upon the same basis as income and profits.

SEC. 165. Section 7287 of the Welfare and Institutions Code is amended to read:

7287. Upon the death of an incompetent person over whom the State Department of Mental Health has obtained jurisdiction pursuant to Section 7284, the department may make proper disposition of the remains, and pay for the disposition of the remains together with any indebtedness existing at the time of the death of such person from the assets of the guardianship or conservatorship estate, and thereupon it shall file its final account with the court or otherwise close its administration of the estate of such person.

SEC. 166. Section 7288 of the Welfare and Institutions Code is amended to read:

7288. Whenever it appears that a person who has been admitted to a state institution and remains under the jurisdiction of the State Department of Mental Health does not have a guardian or conservator of the estate and owns personal property which requires safekeeping for the benefit of the patient, the State Department of Mental Health may remove or cause to be removed such personal property from wherever located to a place of safekeeping.

Whenever it appears that such patient does not own property of a value which would warrant guardianship or conservatorship proceedings, the expenses of such removal and safekeeping shall be paid from funds appropriated for the support of the institution in which the patient is receiving care and treatment; provided, however, that if the sum on deposit to the credit of such patient in the patients' personal deposit fund exceeds the sum of three hundred dollars ($300), the excess may be applied to the payment of such expenses of removal and safekeeping.

When it is determined by the superintendent at any time after the removal for safekeeping of such personal property, that the patient is incurable or is likely to remain in a state institution indefinitely, then any of those articles of personal property which cannot be used by the patient at the institution may be sold at public auction and the proceeds therefrom shall first be applied in reimbursement of the expenses so incurred and the balance shall be deposited to the patient's credit in the patients' personal deposit fund. All moneys so received as reimbursement shall be deposited in the State Treasury in augmentation of the appropriation from which the expenses were paid.

SEC. 167. Section 7289 of the Welfare and Institutions Code is amended to read:

7289. When a person who is a patient of a state hospital in the State Department of Mental Health or the State Department of

Developmental Services has no guardian or conservator of the estate and has money due or owing to him, the total amount of which does not exceed the sum of three thousand dollars ($3,000), the superintendent of the institution of which the person is a patient may collect any money so due or owing upon furnishing to the person, representative, officer, body or corporation in possession of or owing any such sums, an affidavit executed by the superintendent or acting superintendent. The affidavit shall contain the name of the institution of which the person is a patient, and the statement that the total amount of such sums known to be due to the person does not exceed the sum of three thousand dollars ($3,000). Payments from retirement systems and annuity plans which are due or owing to such patients may also be collected by the superintendent of the institution of which the person is a patient, upon the furnishing of an affidavit executed by the superintendent or acting superintendent, containing the name of the institution of which the person is a patient and the statement that such person is entitled to receive such payments. Such sums shall be delivered to the superintendent and shall be deposited by him in the patients' personal deposit fund as provided in Section 7281.

The receipt of such superintendent shall constitute sufficient acquittance for any payment of money made pursuant to the provisions of this section and shall fully discharge such person, representative, officer, body or corporation from any further liability with reference to the amount of money so paid.

The superintendent of each institution shall render such reports and accounts annually or more often as may be required by the department having jurisdiction over the hospital or the Department of Finance of all moneys of patients deposited in the patients' personal deposit accounts of the institution.

SEC. 168. Section 7290 of the Welfare and Institutions Code is amended to read:

7290. The State Department of Mental Health or the State Department of Developmental Services may enter into a special agreement, secured by a properly executed bond, with the relatives, guardian, conservator, or friend of any patient therein, for his care, support, maintenance, or other expenses at the institution. Such agreement and bond shall be to the people of the State of California and action to enforce the same may be brought thereon by the department. All charges due under the provisions of this section, including the monthly rate for the patient's care and treatment as established by or pursuant to law, shall be collected monthly No patient, however, shall be permitted to occupy more than one room in any state institution.

SEC 169. Section 7305 of the Welfare and Institutions Code is amended to read:

7305. A developmentally disabled patient in a state hospital shall not be transferred by the State Department of Developmental Services to a different state hospital without the consent of his

parent, or guardian or conservator, if any.

SEC. 170. Section 7514 of the Welfare and Institutions Code is amended to read:

7514. The State Department of Developmental Services may transfer any patient of a state hospital for the developmentally disabled to another state hospital for the developmentally disabled, at any time and from time to time, upon the application of the parent, guardian, conservator, or other person charged with the support of such patient, if the expenses of the transfer are paid by the applicant. The liability of any estate, person, or county for the care, support and maintenance of such patient in the institution to which he is transferred shall be the same as if he had originally been committed to such institution.

SEC. 171. Section 7518 of the Welfare and Institutions Code is amended to read:

7518. In accordance with this section, the medical director of a state hospital with programs for developmentally disabled patients, as defined in Section 4512, may give consent to medical, dental, and surgical treatment of a minor developmentally disabled patient of the hospital and provide for such treatment to be given to the patient.

If the patient's parent, guardian, or conservator legally authorized to consent to such treatment, does not respond within a reasonable time to the request of the medical director for the granting or denying of consent for such treatment, the medical director may consent, on behalf of the patient, to such treatment and provide for such treatment to be given to the patient.

If the patient has no parent, guardian, or conservator legally authorized to consent to medical, dental, or surgical treatment on behalf of the patient, the medical director may consent to such treatment on behalf of the patient and provide for such treatment to be given to the patient. The medical director may immediately thereupon also request the appropriate regional center for the developmentally disabled to initiate or cause to be initiated proceedings for the appointment of a guardian or conservator legally authorized to consent to medical, dental, or surgical treatment

If the patient is an adult and has no conservator, consent to treatment may be given by someone other than the patient on the patient's behalf only if the patient is mentally incapable of giving his own consent

SEC 172. Section 8006 of the Welfare and Institutions Code is amended to read:

8006 Any such public guardian may apply to a court of competent jurisdiction for appointment as guardian or conservator of the person and estate or person or estate of any person in the county or in a county-owned facility in another county who is a patient under the provisions hereof, or of any person in the county who is a recipient of aid under any of the provisions of this code where it appears that such person requires a guardian or conservator,

or of any person in the county who requires a guardian or conservator and for whom there is no person or corporation qualified and willing to act in such capacity. Any such public guardian may act as guardian or conservator of any person and estate ordered into his hands by the court. Where the public guardian has so applied for appointment as guardian or conservator, or the guardianship or conservatorship of a person and estate has been ordered into his hands by the court, letters of guardianship or conservatorship shall be procured, in like manner and on like proceedings as letters of guardianship or conservatorship are issued to other persons. His official bond and oath are in lieu of the guardian's or conservator's bond and oath on the grant of letters of temporary guardianship or letters of guardianship or letters of temporary conservatorship or letters of conservatorship. The public guardian may take immediate charge of the property within his county of persons referred to him for guardianship or conservatorship when such property is being wasted, uncared for, or lost.

SEC. 173. Section 8012 of the Welfare and Institutions Code is amended to read

8012 (a) Pursuant to Section 2631 of the Probate Code, the public guardian upon the death of his ward or upon the death of his conservatee may pay in full or in part from assets of such ward or conservatee which are under his control the unpaid expenses of his ward's or conservatee's burial and last illness.

(b) If, after the death of the conservatee or ward and after deduction of the cost or payment of burial and last illness expenses pursuant to Section 2631 of the Probate Code, the total market value of the estate of the decedent does not exceed the amount set forth in subdivision (a) of Section 1143 of the Probate Code, the public guardian may apply to a judge of the superior court for an order permitting him to sell any personal property belonging to the decedent, to withdraw any money of the decedent on deposit with any bank or other commercial savings institution, and to collect any debt, claim, or insurance proceeds that may be owing to the decedent or his estate. If the order is granted, any person or institution shall pay or deliver money or property to the public guardian Application for such an order may be filed whether or not there is a will of the decedent in existence if the will does not appoint an executor or if the named executor refuses to act. No notice of the application need be given. After the payment of any remaining amounts due for burial and last illness, the public guardian may transfer any remaining assets in accordance with and subject to the provisions of Section 630 of the Probate Code The value of the property for the purpose of ascertaining the right to transfer under that section shall be determined after deduction of such remaining amounts paid.

SEC 174 Section 8102 of the Welfare and Institutions Code is amended to read·

8102 Whenever a person who has been detained or

apprehended for examination of his mental condition, or who is a mental patient in any hospital or institution or who is on leave of absence from such hospital or institution, is found to own, have in his possession or under his control, any firearm whatsoever, said firearm shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of said firearm until the release without commitment of the person or the restoration to capacity of the person, or until the appointment of a guardian or conservator for the person, or shall make such other disposition of the firearm as ordered by the court.

SEC. 174.5. Section 8102 of the Welfare and Institutions Code is amended to read:

8102. Whenever a person who has been detained or apprehended for examination of his mental condition, or who is a mental patient in any hospital or institution or who is on leave of absence from such hospital or institution, is found to own, have in his possession or under his control, any firearm whatsoever, said firearm shall be confiscated by any law enforcement agency or peace officer, who shall retain custody of said firearm until the release without commitment of the person or the restoration to capacity of the person, or until the appointment of a guardian or conservator for the person, or shall make such other disposition of the firearm as ordered by the court.

Where the person is released without commitment, the confiscating law enforcement agency shall have 30 days to initiate a court hearing for a judicial determination of whether the return of such firearm would be likely to result in harm to any person. If no hearing is initiated by such law enforcement agency within 30 days of the release without commitment, the firearm shall be returned.

SEC 175 Section 14124.71 of the Welfare and Institutions Code is amended to read:

14124 71. (a) When benefits are provided or will be provided to a beneficiary under this chapter because of an injury for which another person is liable, or for which a carrier is liable in accordance with the provisions of any policy of insurance issued pursuant to Insurance Code Section 11580.2, the director shall have a right to recover from such person or carrier the reasonable value of benefits so provided. The Attorney General, or counsel for the fiscal intermediary under the Medi-Cal Program with the permission of the Attorney General or a county through its civil legal adviser, may, to enforce such right, institute and prosecute legal proceedings against the third person or carrier who may be liable for the injury in an appropriate court, either in the name of the director or in the name of the injured person, his guardian, conservator, personal representative, estate, or survivors.

(b) The director may

(1) Compromise, or settle and release any such claim, or

(2) Waive any such claim, in whole or in part, for the convenience of the director, or if the director determines that collection would

result in undue hardship upon the person who suffered the injury, or in a wrongful death action upon the heirs of the deceased.

(c) No action taken in behalf of the director pursuant to this section or any judgment rendered in such action shall be a bar to any action upon the claim or cause of action of the beneficiary, his guardian, conservator, personal representative, estate, dependents, or survivors against the third person who may be liable for the injury, or shall operate to deny to the beneficiary the recovery for that portion of any damages not covered hereunder.

SEC. 176. Section 14124.73 of the Welfare and Institutions Code is amended to read:

14124.73. (a) If either the beneficiary or the director brings an action or claim against such third person or carrier the beneficiary or the director shall within 30 days of filing the action give to the other written notice by personal service or registered mail of the action or claim, and of the name of the court or state or local agency in which the action or claim is brought. Proof of such notice shall be filed in such action or claim. If an action or claim is brought by either the director or the beneficiary, the other may, at any time before trial on the facts, become a party to, or shall consolidate his action or claim with the other if brought independently.

(b) If an action or claim is brought by the director pursuant to subdivision (a) of Section 14124.71, written notice to the beneficiary, guardian, conservator, personal representative, estate or survivor given pursuant to this section shall advise him of his right to intervene in the proceeding, his right to obtain a private attorney of his choice, and the director's right to recover the reasonable value of the benefits provided.

SEC. 177. Section 14124.79 of the Welfare and Institutions Code is amended to read:

14124.79. In the event that the beneficiary, his guardian, conservator, personal representative, estate or survivors or any of them brings an action against the third person who may be liable for the injury, notice of institution of legal proceedings, notice of settlement and all other notices required by this code shall be given to the director in Sacramento except in cases where the director specifies that notice shall be given to the Attorney General. All such notices shall be given by the attorney retained to assert the beneficiary's claim, or by the injured party beneficiary, his guardian, conservator, personal representative, estate or survivors, if no attorney is retained.

SEC. 178. Section 17007 of the Welfare and Institutions Code is amended to read:

17007. No fee shall be charged by any public officer for filing any petition for guardianship or conservatorship under the provisions of Section 17403, or for any official act done or necessary in the course thereof, except that a county employee acting as such guardian or conservator shall be entitled to such costs therefor as will reimburse him in full for moneys advanced by him in such guardianship or

conservatorship.

Where a county officer or employee is appointed and acts as such guardian or conservator, the board of supervisors may, by resolution, order that expenses necessary in the conduct of the guardianship or conservatorship and any necessary premiums on the bond of the guardian or conservator be advanced by the county to such guardian or conservator, and such expenses shall be a charge against the county, but the county shall be reimbursed out of any funds or property of the estate of the ward or conservatee.

SEC. 179. Section 17403 of the Welfare and Institutions Code is amended to read:

17403. If a person for the support of whom public moneys have been expended acquires property, the county shall have a claim against him to the amount of a reasonable charge for moneys so expended, and such claim shall be enforced by action against him by the district attorney of the county on request of the board of supervisors. In a proper case therefor, the district attorney shall apply to the proper court for the appointment of a guardian or conservator of the person or estate, or both, of the indigent. The support of such indigent from public funds shall be deemed a ground for sale or encumbrance of his property under the provisions of Section 2541 of the Probate Code.

SEC. 180. Section 19451 of the Welfare and Institutions Code is amended to read:

19451. This article does not authorize the care, treatment, or supervision or any control over any mentally retarded person without the written consent of his parent or guardian or conservator.

SEC. 181. This act shall become operative only if Assembly Bill No. 261 is chaptered and becomes effective January 1, 1980, and in such case, shall become operative on January 1, 1981, the same as Assembly Bill No. 261, except as otherwise specified in Section 188.

SEC. 182. It is the intent of the Legislature, if this bill and Assembly Bill 1480 are both chaptered and become effective January 1, 1980, both bills amend Section 4600 of the Civil Code, and this bill is chaptered after Assembly Bill 1480, that Section 4600 of the Civil Code, as amended by Section 2 of Assembly Bill 1480 shall remain in effect until the operative date of this act and on such date shall be further amended in the form set forth in Section 13.1 of this act to incorporate the changes in Section 4600 proposed by this bill. Therefore, Section 13.1 of this act shall become operative only if this bill and Assembly Bill 1480 are both chaptered and become effective January 1, 1980, both bills amend Section 4600, and this bill is chaptered after Assembly Bill 1480, in which case Section 13.1 of this act shall become operative on the operative date of this act and Section 13 of this act shall not become operative

SEC 183. It is the intent of the Legislature, if this bill and Assembly Bill 980 are both chaptered and become effective on or before January 1, 1980, both bills amend or add Section 44546 of the Health and Safety Code, and this bill is chaptered after Assembly Bill

980, that Section 44546 of the Health and Safety Code, as added by Section 8 of Assembly Bill 980 shall remain in effect until the operative date of this act and on such date shall be further amended in the form set forth in Section 81.1 of this act to incorporate the changes in Section 44546 proposed by this bill. Therefore, if this bill and Assembly Bill 980 are both chaptered and become effective on or before January 1, 1980, each bill amend or adds Section 44546, and this bill is chaptered after Assembly Bill 980, in which case Section 81.1 of this act shall become operative on the operative date of this act and Section 81 of this act shall not become operative.

SEC. 184. It is the intent of the Legislature, if this bill and Assembly Bill 820 are both chaptered and become effective January 1, 1980, both bills amend Section 202 of the Probate Code, and this bill is chaptered after Assembly Bill 820, that Section 202 of the Probate Code, as amended by Section 1 of Assembly Bill 820 shall remain in effect until the operative date of this act and on such date shall be further amended in the form set forth in Section 98.1 of this act to incorporate the changes in Section 202 proposed by this bill. Therefore, Section 98.1 of this act shall become operative only if this bill and Assembly Bill 820 are both chaptered and become effective January 1, 1980, both bills amend Section 202, and this bill is chaptered after Assembly Bill 820, in which case Section 98.1 of this act shall become operative on the operative date of this act and Section 98 of this act shall not become operative.

SEC 185. It is the intent of the Legislature, if this bill and Assembly Bill 820 are both chaptered and become effective January 1, 1980, both bills amend Section 630 of the Probate Code, and this bill is chaptered after Assembly Bill 820, that Section 630 of the Probate Code, as amended by Section 13 of Assembly Bill 820 shall remain in effect until the operative date of this act and on such date shall be further amended in the form set forth in Section 101.1 of this act to incorporate the changes in Section 630 proposed by this bill. Therefore, Section 101.1 of this act shall become operative only if this bill and Assembly Bill 820 are both chaptered and become effective January 1, 1980, both bills amend Section 630, and this bill is chaptered after Assembly Bill 820, in which case Section 101.1 of this act shall become operative on the operative date of this act and Section 101 of this act shall not become operative

SEC. 186. It is the intent of the Legislature, if this bill and Assembly Bill 656 are both chaptered and become effective January 1, 1980, both bills amend Section 20012 of the Vehicle Code, and this bill is chaptered after Assembly Bill 656, that Section 20012 of the Vehicle Code, as amended by Section 1 of Assembly Bill 656 shall remain in effect until the operative date of this act and on such date shall be further amended in the form set forth in Section 115 1 of this act to incorporate the changes in Section 20012 proposed by this bill Therefore, Section 115.1 of this act shall become operative only if this bill and Assembly Bill 656 are both chaptered and become effective January 1, 1980, both bills amend Section 20012, and this bill is

chaptered after Assembly Bill 656, in which case Section 115.1 of this act shall become operative on the operative date of this act and Section 115 of this act shall not become operative.

SEC. 187. It is the intent of the Legislature, if this bill and Senate Bill 976 are both chaptered and become effective January 1, 1980, both bills amend Section 8102 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 976, that Section 8102 of the Welfare and Institutions Code, as amended by Section 1 of Senate Bill 976 shall remain in effect until the operative date of this act and on such date shall be further amended in the form set forth in Section 174.5 of this act to incorporate the changes in Section 8102 proposed by this bill. Therefore, Section 174.5 of this act shall become operative only if this bill and Senate Bill 976 are both chaptered and become effective January 1, 1980, both bills amend Section 8102, and this bill is chaptered after Senate Bill 976, in which case Section 174.5 of this act shall become operative on the operative date of this act and Section 174 of this act shall not become operative.

SEC. 188. It is the intent of the Legislature, if this bill and Assembly Bill 1204 are both chaptered and this bill is chaptered after Assembly Bill 1204, that Section 7254 of the Welfare and Institutions Code shall be repealed on January 1, 1980. Therefore, Section 156.5 of this act shall become operative only if this bill and Assembly Bill 1204 are both chaptered and this bill is chaptered after Assembly Bill 1204, in which case Section 156.5 of this act shall become operative on January 1, 1980, and Section 156 shall not become operative on that or any other date.

CHAPTER 731

An act to amend Sections 202, 296.41, 326, 327, 328, 329, 423, 440, 441, 451, 466, 630, 700, 707, 710, 810, 831, 841, 851, 851.5, 1024, and 1153 of, to add Section 333 to, and to repeal Sections 701, 702, and 1201 of, the Probate Code, and to amend Sections 14143 and 14506 of the Revenue and Taxation Code, relating to estates.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 202 of the Probate Code is amended to read:

202. (a) Except as provided in Section 204, when a husband or wife dies intestate, or dies testate and by his or her will bequeaths or devises all or a part of his or her interest in the community property to the surviving spouse, it passes to the survivor subject to the provisions of Sections 203 and 205, and no administration is necessary.

(b) Notwithstanding subdivision (a), upon the election of the

surviving spouse or the personal representative, guardian of the estate, or conservator of the property of the surviving spouse, the interest of the deceased spouse in the community property or both the interest of the deceased spouse and the surviving spouse in the community property may be administered under Division 3 (commencing with Section 300). The election must be made within four months after the issuance of letters testamentary or of administration, or within the further time as the court may allow upon a showing of good cause, by a writing specifically evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse and prior to the entry of an order under Section 655.

(c) Notwithstanding subdivision (a) or (b), the surviving spouse or the personal representative, guardian of the estate, or conservator of the property of the surviving spouse may file an election and agreement in the proceedings for the administration of the estate of the deceased spouse to have all or part of the interest of the surviving spouse in the community property transferred by the surviving spouse or his or her personal representative, guardian, or conservator to the trustee under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee. The election and agreement must be filed before the entry of the decree of final distribution in the proceedings.

SEC. 1.1. Section 202 of the Probate Code is amended to read:

202. (a) Except as provided in Section 204, when a husband or wife dies intestate, or dies testate and by his or her will bequeaths or devises all or a part of his or her interest in the community property to the surviving spouse, it passes to the survivor subject to the provisions of Sections 203 and 205, and no administration is necessary.

(b) Notwithstanding subdivision (a), upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse, the interest of the deceased spouse in the community property or both the interest of the deceased spouse and the surviving spouse in the community property may be administered under Division 3 (commencing with Section 300). The election must be made within four months after the issuance of letters testamentary or of administration, or within the further time as the court may allow upon a showing of good cause, by a writing specifically evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse and prior to the entry of an order under Section 655

(c) Notwithstanding subdivision (a) or (b), the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file an election and agreement in the proceedings for the administration of the estate of the deceased spouse to have all or part of the interest of the surviving

spouse in the community property transferred by the surviving spouse or his or her personal representative, quardian, or conservator to the trustee under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee. The election and agreement must be filed before the entry of the decree of final distribution in the proceedings.

SEC. 2. Section 296.41 of the Probate Code is amended to read:

296.41. When it is claimed that, in accordance with the provisions of this chapter, any persons have died under circumstances where there is no sufficient evidence that they have died otherwise than simultaneously, the executor or administrator of any such person, or any other person interested in the estate of any such person, may file a petition, in the estate proceeding where he received his appointment, or in which he claims an interest, seeking to have it determined that such persons died under circumstances where there is no sufficient evidence that they died otherwise than simultaneously. The clerk shall set the petition for hearing by the court and cause notice thereof to be personally served at least 10 days before the date of the hearing upon the executor or administrator of each other person claimed to have so died. If the representative of any such other person is also the petitioner then, in lieu of personal service upon him, such notice shall be mailed to the heirs and devisees of such other person, so far as they are known to the petitioner, at least 10 days before the date of hearing.

SEC. 3. Section 326 of the Probate Code is amended to read:

326. A petiton for the probate of the will must state:

(1) The jurisdictional facts;

(2) Whether the person named as executor consents to act or renounces his or her right to letters testamentary;

(3) The address of the decedent's residence at the time of his or her death;

(4) The names, ages, residences, and relation to decedent of the heirs, devisees and legatees of the decedent, so far as known to the petitioner;

(5) The character and estimated value of the property of the estate;

(6) The name of the person for whom letters testamentary are prayed.

Where the necessary jurisdictional facts actually exist but through defect of form or error, they or any of them are incorrectly stated in any petition or pleading, the court has and retains jurisdiction to correct the defect or error at any time. No such defect or error shall make the order admitting the will to probate or any subsequent proceeding void.

SEC 4. Section 327 of the Probate Code is amended to read·

327. When the petition is filed, the clerk of the court shall set the same for hearing by the court upon some day not less than 10 nor more than 30 days thereafter, and cause notice thereof to be

published pursuant to Section 333.

SEC 5 Section 328 of the Probate Code is amended to read:

328. At least 10 days before the hearing, notice of the hearing must be personally served upon the heirs of the testator and the devisees and legatees named in the will and all persons named as executors who are not petitioning, or mailed, postage prepaid, from a post office within this state, addressed to them at their respective places of residence, if known to the petitioner, if not, at the county seat of the county where the proceedings are pending. This notice shall also advise the person receiving the notice of the right to request special notice pursuant to Sections 1202 and 1202.5.

Whenever the instrument offered for probate involves or may involve a testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state, or involves or may involve a bequest or devise for a charitable purpose without an identified legatee, devisee, or beneficiary, notice of the hearing on the petition for probate accompanied by a copy of the petition and the will, must be personally served upon the Attorney General or mailed, postage prepaid from a post office within this state, addressed to him at the office of the Attorney General at Sacramento, California.

As used in this section "post office" includes mailbox, subpost office, substation and mail chute or other like facility regularly maintained by the government of the United States.

SEC. 6. Section 329 of the Probate Code is amended to read:

329. If no one appears to contest the probate, the court may admit the will to probate on the evidence of one of the subscribing witnesses only, if the evidence shows that the will was executed in all particulars as required by law, which evidence may be received by an affidavit to which there is attached a photographic copy of the will, or by an affidavit in the original will which may include or incorporate the attestation clause. If none of the subscribing witnesses resides in the county, but the deposition of one of them can be taken elsewhere, the court may direct it to be taken, and may authorize a photographic copy of the will to be made and to be presented to such witness on his examination, who may be asked the same questions with respect to it and the handwriting of himself, the testator and the other witness, as would be pertinent and competent if the original will were present. If the subscribing witnesses are competent at the time of attesting the execution, their subsequent incompetency, from whatever cause, will not prevent the probate of the will, if it is otherwise satisfactorily proved. If the court is satisfied that the evidence of no subscribing witness can be procured after reasonable search or inquiry, the court may, if the will on its face conforms to all requirements of law, admit the will to probate (1) upon proof of the handwriting of the testator and of any one of the subscribing witnesses or (2) upon proof of the handwriting of the testator and receipt in evidence either of a writing at the end of the document offered as a will bearing the purported signatures of all

subscribing witnesses, or an affidavit of a person with personal knowledge of the circumstances of execution, which writing or affidavit recites facts showing the due execution of the will.

SEC. 7. Section 333 is added to the Probate Code, to read:

333. (a) Publication of notice pursuant to this section shall be for at least 10 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting such publication dates, are sufficient. Notice shall be published in a newspaper of general circulation in the city where the decedent resided at time of death, or where the decedent's property is located. If there is no such newspaper, the decedent did not reside in a city, or the property is not located in a city, then notice shall be published in a newspaper of general circulation within the judicial district in which the decedent resided or the property is located. If there is no such newspaper, notice shall be published in a newspaper of general circulation in the county which is circulated within the community in which the decedent resided or the property is located. If there is no such newspaper, notice shall be given in written or printed form, posted at three of the most public places within such community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) Whether published or posted, the caption of such notice and decedent's name shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state:

"NOTICE OF DEATH OF

_____

AND OF PETITION TO ADMINISTER ESTATE NO._____

To all heirs, beneficiaries, creditors and contingent creditors of _____ and persons who may be otherwise interested in the will and/or estate:

A petition has been filed by _____ in the Superior Court of _____ County requesting that _____ be appointed as personal representative to administer the estate of _____ [under the Independent Administration of Estates Act]. The petition is set for hearing in Dept. No. _____ at _____ on _____

(address)

_____ at _____.

(date of hearing) (time of hearing)

IF YOU OBJECT to the granting of the petition, you should either appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.

IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court or present it to the

personal representative appointed by the court within four months from the date of first issuance of letters as provided in Section 700 of the Probate Code of California. The time for filing claims will not expire prior to four months from the date of the hearing noticed above

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may file a request with the court to receive special notice of the inventory of estate assets and of the petitions, accounts and reports described in Section 1200 of the California Probate Code.

(Name and address of petitioner, or his or her attorney)"

(c) No petition filed pursuant to Section 326 or 440 may be heard by the court unless an affidavit showing due publication of notice has been filed with the clerk upon completion of the publication. Such affidavit shall contain a copy of the notice, and state the date of its first publication.

SEC. 8. Section 423 of the Probate Code is amended to read:

423. Administration may be granted to one or more competent persons, although not otherwise entitled to the same, at the written request of the person entitled or of a child, grandchild, parent, brother or sister or issue of a deceased brother or sister, of the decedent who would be entitled but for his or her nonresidence in California, filed in court. If the person making the request is a child, grandchild, parent, brother or sister of the decedent, the nominee shall have priority next after those in the class of the person making the request; otherwise the court, in its discretion, may appoint either such nominee or a person of a class subsequent in rank to that of the person making the request; but other persons of the class of the person making the request shall have priority over such nominee.

SEC. 9. Section 440 of the Probate Code is amended to read:

440. A petition for letters of administration must be in writing, signed by the applicant or his counsel, and filed with the clerk of the court, and must state:

(1) The jurisdictional facts;

(2) The address of the decedent's residence at the time of his or her death;

(3) The names, ages, residences, and relation to the decedent of the heirs of the decedent, so far as known to the applicant;

(4) The character and estimated value of the property of the estate

Where the necessary jurisdictional facts actually exist but, through defect of form or error, they or any of them are incorrectly stated in any petition or pleading, the court has and retains jurisdiction to correct the defect or error at any time. No such defect or error shall make an order appointing an administrator or any subsequent proceeding void

SEC. 10. Section 441 of the Probate Code is amended to read:

441. The clerk shall set the petition for hearing by the court and cause notice thereof to be published pursuant to Section 333. The clerk shall also cause notice of the hearing to be mailed, postage prepaid, to the heirs of the decedent named in the petition at least 10 days before the hearing, addressed to them at their respective places of residence as set forth in the petition, otherwise at the county seat of the county where the proceedings are pending. Such mailed notice shall also advise the person receiving such notice of the right to request special notice pursuant to Sections 1202 and 1202.5.

SEC. 11. Section 451 of the Probate Code is amended to read:

451. When such petition is filed, the clerk shall give notice as in the case of an original application, exclusive of notice required by Section 333, and shall issue a citation to the administrator to appear and answer the petition at the time appointed for the hearing. At the time appointed, upon proof that the citation has been duly served and notice given as above required, the court shall take evidence upon the petition, and if the right of the applicant is established, and he is competent, letters of administration shall be granted to him and the letters of the former administrator revoked.

SEC. 12. Section 466 of the Probate Code is amended to read:

466. When letters testamentary or of administration on the estate of the decedent are granted, the powers of the special administrator cease, and he or she must forthwith deliver all property of the decedent in his or her hands to the executor or administrator, who may prosecute to final judgment any suit commenced by the special administrator. The special administrator shall also deliver to the executor or administrator, and file in the court which issued the letters, a listing of all creditors' claims presented or filed in any proceeding on the estate of the decedent of which the special administrator has knowledge, showing the name and address of each creditor, the amount of the claim and what action has been taken with respect to the claim.

SEC. 13 Section 630 of the Probate Code is amended to read:

630. When a decedent leaves no real property, nor interest therein nor lien thereon, in this state, and the total value of the decedent's property in this state, excluding any motor vehicle of which the decedent is the owner or legal owner, over and above any amounts due to the decedent for services in the armed forces of the United States, and over and above the amount of salary not exceeding five thousand dollars ($5000), including compensation for unused vacation, owing to decedent for services from any employment, does not exceed thirty thousand dollars ($30,000), the surviving spouse, the children, lawful issue of deceased children, a parent, brothers or sisters of the decedent, the lawful issue of a deceased brother or sister, or the conservator of the property of any person bearing such relationship to the decedent, or the guardian of the estate of any minor or insane or incompetent person bearing such relationship to the decedent, or the trustee named under a trust

agreement executed by the decedent during his lifetime, the primary beneficiaries of which bear such relationship to the decedent, if such person or persons has or have a right to succeed to the property of the decedent, or is the sole beneficiary or are all of the beneficiaries under the last will and testament of the decedent, may, without procuring letters of administration, or awaiting, the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to such person or persons upon furnishing the person, representative, corporation, officer or body owing the money, having custody of such property or acting as registrar or transfer agency of such evidences of interest, indebtedness or right, with an affidavit or declaration under penalty of perjury showing the right of the person or persons to receive such money or property, or to have such evidences transferred.

SEC. 13.1. Section 630 of the Probate Code is amended to read:

630. When a decedent leaves no real property, nor interest therein nor lien thereon, in this state, and the total value of the decedent's property in this state, excluding any motor vehicle of which the decedent is the owner or legal owner, over and above any amounts due to the decedent for services in the armed forces of the United States, and over and above the amount of salary not exceeding five thousand dollars ($5,000), including compensation for unused vacation, owing to decedent for services from any employment, does not exceed thirty thousand dollars ($30,000), the surviving spouse, the children, lawful issue of deceased children, a parent, brothers or sisters of the decedent, the lawful issue of a deceased brother or sister, or the guardian or conservator of the estate of any person bearing such relationship to the decedent, or the trustee named under a trust agreement executed by the decedent during his lifetime, the primary beneficiaries of which bear such relationship to the decedent, if such person or persons has or have a right to succeed to the property of the decedent, or is the sole beneficiary or are all of the beneficiaries under the last will and testament of the decedent, may, without procuring letters of administration, or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to such person or persons upon furnishing the person, representative, corporation, officer or body owing the money, having custody of such property or acting as registrar or transfer agent of such evidences of interest, indebtedness or right, with an affidavit or declaration under penalty of perjury showing the right of the person or persons to receive such money or property, or to have such evidences transferred.

SEC. 14. Section 700 of the Probate Code is amended to read:

700. (a) Publication of the Notice of Death and of Petition to Administer Estate, published pursuant to Section 333, shall also constitute notice to the creditors of the decedent, requiring all

persons having claims against the decedent to file them in the office of the clerk of the court from which the letters issued, or present them to the executor or administrator within four months of the first issuance of letters, including letters of special administration with powers of a general administrator or the granting of additional powers, duties, and obligations of a general administrator under Section 465 to a previously appointed special administrator.

(b) If the executor dies, resigns or is removed before the time to file or present claims has expired, the time to file or present claims is not extended.

(c) If letters are issued by more than one court, or if subsequent letters are issued by the same court, or if additional powers of a general administrator are granted to a previously appointed special administrator, the four months time within which claims must be filed or presented shall commence upon the first issuance of letters or the granting of such additional powers, whichever shall be first.

SEC. 15. Section 701 of the Probate Code is repealed.

SEC. 16. Section 702 of the Probate Code is repealed.

SEC. 17. Section 707 of the Probate Code is amended to read:

707. (a) Except as provided in subdivision (b) or Section 707.5 or Section 720, all claims arising upon contract, whether they are due, not due, or contingent, and all claims for funeral expenses and all claims for damages for injuries to or death of a person or injury to property and all claims against the executor or administrator of any testator or intestate who in his lifetime has wasted, destroyed, taken or carried away or converted to his own use, the property of another person or committed any trespass on the real property of another person, must be filed or presented within the time limited in the notice or as extended by the provisions of Section 709 of this code. Any claim not so filed or presented is barred forever, unless it is made to appear by the affidavit of the claimant to the satisfaction of the court that (1) the claimant had not received notice, by reason of being out of the state, or (2) the claimant had in good faith filed a claim in another proceeding for the same decedent which has not been consolidated with the present proceeding, and in which letters had not been issued. In either event the claim may be filed or presented at any time within one year after the expiration of such prescribed period and before petition for final distribution has been filed; provided, neither the filing or presentation of such claim nor its later establishment, in whole or in part, shall make property distributed pursuant to court order or any payments properly made before filing or presentation of such claim subject to the claim. The clerk must enter in the register every claim filed, giving the name of the claimant, the amount and character of the claim, the rate of interest, if any, and the date of filing.

(b) The filing and presentation of a claim is not required as a prerequisite to commencing an action against the decedent for damages for injury to or for the death of a person caused by the wrongful act or neglect of the decedent or to recover upon a

judgment obtained in the action if (1) the decedent had liability insurance applicable to the cause of action, (2) the amount of damages sought in the action does not exceed the maximum amount of such insurance, or recovery in excess thereof is waived, and (3) the estate of the decedent otherwise qualifies for summary probate proceedings pursuant to the provisions of Section 630 of the Probate Code. If the amount of damages sought in the action exceeds the maximum amount of the insurance, filing and presentation of a claim is required only with respect to the amount sought in excess of the maximum amount of the insurance. The defendant in the action may be designated as "Estate of (name and decedent), Deceased". No action shall be maintained under this subdivision unless the insurer has been served with a copy of the complaint.

SEC. 18. Section 710 of the Probate Code is amended to read:

710. When a claim is filed with the clerk before being presented to the executor or administrator, it shall be filed in duplicate. The clerk shall immediately deliver or mail to the executor or administrator, when appointed, or his attorney, one of the duplicates of the claim. The executor or administrator must allow or reject it, and his allowance or rejection must be in writing and filed with the clerk. If he allows the claim, the clerk, immediately after the filing of the allowance, must present the claim and the allowance to the judge, and at the same time, must indorse on the claim the date of such presentation. The judge must indorse upon the claim his approval or rejection, with the date thereof.

SEC. 19. Section 810 of the Probate Code is amended to read:

810. To enter into an agreement to sell, or to give an option to purchase, a mining claim or claims, or real property worked as a mine, belonging to the estate of a decedent, the executor or administrator or any person interested in the estate shall file a verified petition describing the property in question, stating the terms and general conditions of the proposed agreement or option, showing the advantage or advantages that may accrue to the estate from entering into it, and praying for an order authorizing or directing its execution. The clerk shall set the petition for hearing by the court and cause notice thereof to be given for the period and in the manner required by Sections 780 and 1200.

SEC. 20. Section 831 of the Probate Code is amended to read:

831. The executor or administrator, or any person interested in the estate, shall file a verified petition showing the particular purpose or purposes for which the order is sought, the necessity for or advantage to accrue from the order, the amount of money proposed to be raised, if any, the rate of interest to be paid, the length of time the note or notes are to run, and a general description of the property proposed to be mortgaged or subjected to such deed of trust or other lien. The clerk shall set the petition for hearing by the court and give notice thereof for the period and in the manner required by Section 1200

SEC. 21. Section 841 of the Probate Code is amended to read:

841. To obtain such an order, the executor or administrator, or any person interested in the estate, shall file a verified petition showing the advantage to accrue from giving the lease, a general description of the property proposed to be leased, and the term, rental and general conditions of the proposed lease. The clerk shall set the petition for hearing by the court and cause notice thereof to be given for the period and in the manner required by Sections 780 and 1200; provided, that if the will authorizes or directs the personal representative to lease property, the notice specified in Section 780 is not required.

SEC. 22. Section 851 of the Probate Code is amended to read:

851. The executor or administrator or any person claiming to be entitled to such conveyance or transfer may file with the clerk of the court a verified petition, setting forth the facts upon which the claim is predicated. Thereupon the clerk shall set the petition for hearing by the court, and notice thereof shall be served on the executor or administrator personally when he is not the petitioner.

SEC. 23. Section 851.5 of the Probate Code is amended to read:

851.5. If a person dies in possession of, or holding title to, real or personal property which, or some interest in which, is claimed to belong to another, or dies having a claim to real or personal property, title to or possession of which is held by another, the executor, administrator, or any claimant may file with the clerk of the court a verified petition setting forth the facts upon which the claim is predicated. Thereupon the clerk shall set the petition for hearing by the court and give notice thereof for the period and in the manner required by Section 1200. The petitioner shall cause notice of the hearing and a copy of the petition to be mailed to the executor or administrator (if not the petitioner) and all known heirs, legatees and devisees at their last known addresses, as provided in Section 1200, whether they have requested special notice or given notice of appearance or not. The petitioner shall also cause notice of the hearing and a copy of the petition to be served in accordance with Title 5 (commencing with Section 410.10) of Part 2 of the Code of Civil Procedure on any other person who may have an interest in the property which is the subject of the petition, at least 30 days prior to the date set for hearing. Any interested person may request time for filing a response to the petition, for discovery proceedings, or for other preparation for such hearing and the court shall grant a continuance for a reasonable time for any of such purposes. Notice of pendency of such proceeding may be filed pursuant to Section 409 of the Code of Civil Procedure. Any person having or claiming title to or an interest in the property which is the subject of the petition, at or prior to the hearing, may object to the hearing of the petition if the petition is filed in a court which is not the proper court under any other provision of law for the trial of a civil action seeking the same relief and, if such objection be established, the court shall not grant the petition. If a civil action is pending in respect to the subject matter of a claim filed pursuant to this section and jurisdiction has

been obtained in the court where the civil action is pending the court shall abate the petition until the conclusion of the civil action.

SEC. 24. 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.

A receipt from the county treasurer to the payor certifying in a manner approved by the State Controller the payment of all inheritance taxes due and payable by the estate, together with any interest thereon, shall constitute proof of payment

SEC. 25. Section 1153 of the Probate Code is amended to read:

1153 The public administrator, or any person who received letters of administration while acting as public administrator, must return to the superior court, once in every six months, a report, under oath, of all estates of decedents which have come into his hands during the said six months, giving the value of each estate, the amount of money which he has received from each estate, a statement of what he has done with it, and the amount of his fees and expenses incurred in each estate, and the balance, if any, in each estate, remaining in his hands. He shall file such report in the office of the county clerk of the county. Such report shall be open to public inspection One copy of the report must be filed with the papers in each estate so reported and one copy must be transmitted to the State Controller within 60 days after the first Monday in January and July of each year.

SEC. 26. Section 1201 of the Probate Code is repealed.

SEC 27 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 a discharge from liability for payment, unless a receipt countersigned and sealed by the State 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. 28. Section 14506 of the Revenue and Taxation Code is amended to read:

14506. Within 60 days after the receipt of the information and documentation by the referee needed to assess the tax or to issue a certificate of no tax, as may be evidenced by an affidavit which is filed in the proceedings by the person seeking a determination of tax or no tax and served by mail on the referee, the referee shall file a written inheritance tax report or the certification that no tax is due with the clerk of the court. If the referee does not comply with the provisions of this section, the court may issue any orders which may be necessary to effect compliance. The written report or certification shall set forth the following:

(a) The clear market value of the property included in each transfer subject to this part from the decedent to any person sharing in the estate, whether the property transferred is in the estate or not.

(b) The amount of tax which is due and payable on each transfer.

(c) Such other facts as may advise the court in regard to the tax, or which the court may require.

In addition to filing the report, the referee may file with the court any deposition, exhibit, other evidence, or other information taken before or submitted to him.

In the case of any amount required to be shown on a form prescribed by the Controller for any return, statement, report, or other document, if such amount of such item is other than a whole-dollar amount, the fractional part of a dollar may be disregarded unless it amounts to one-half dollar ($.50) or more, in which case the amount (determined without regard to the fractional part of a dollar) shall be increased by one dollar ($1). The provisions of this section shall not be applicable to items which must be taken into account in making the computations necesary to determine the amount required to be shown on the form, but shall be applicable only to such final amount.

SEC. 29. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 30. The provisions of this bill shall apply only to petitions for probate or letters of administration filed on or after January 1, 1980.

SEC. 31 It is the intent of the Legislature, if this bill and Assembly Bill 167 are both chaptered and become effective January 1, 1980, both bills amend Section 202 of the Probate Code, and this bill is chaptered after Assembly Bill 167, that Section 202 of the Probate Code, as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill 167, and that on the operative date of Assembly Bill 167 Section 202 of the Probate Code as amended by Section 1 of this act be further amended in the

form set forth in Section 1.1 of this act to incorporate the changes in Section 202 proposed by Assembly Bill 167. Therefore, Section 1.1 of this act shall become operative only if this bill and Assembly Bill 167 are both chaptered and become effective January 1, 1980, both bills amend Section 202, and this bill is chaptered after Assembly Bill 167, in which case Section 1.1 of this act shall become operative on the operative date of Assembly Bill 167.

SEC. 32. It is the intent of the Legislature, if this bill and Assembly Bill 167 are both chaptered and become effective January 1, 1980, both bills amend Section 630 of the Probate Code, and this bill is chaptered after Assembly Bill 167, that Section 630 of the Probate Code, as amended by Section 13 of this act shall remain operative only until the operative date of Assembly Bill 167, and that on the operative date of Assembly Bill 167 Section 630 of the Probate Code as amended by Section 13.1 of this act be further amended in the form set forth in Section 13.1 of this act to incorporate the changes in Section 630 proposed by Assembly Bill 167. Therefore, Section 13.1 of this act shall become operative only if this bill and Assembly Bill 167 are both chaptered and become effective January 1, 1980, both bills amend Section 630, and this bill is chaptered after Assembly Bill 167, in which case Section 13.1 of this act shall become operative on the operative date of Assembly Bill 167.

CHAPTER 732

An act to amend Sections 11514, 11901, 11906, 11907, 12504, 12671, and 12801 of, to amend and renumber Sections 11902, 11903, 11909, 11910, 11911, and 11913 of, to add Sections 11902, 11904, 12672, 12673, and 12995 to, to add Article 1.5 (commencing with Section 11920) to Chapter 5 of Division 6 of, and to repeal Sections 11905, 11908, 11912, and 12813 of, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 11514 of the Food and Agricultural Code is amended to read:

11514. Whenever a decision of the director suspends for 30 days or less the license of a person licensed pursuant to Sections 11701 to 11709, inclusive, or Sections 11901 to 11913, inclusive, and such suspension becomes final, the licensee may, before the operative date of such suspension, petition the director for permission to make a monetary payment in lieu of serving all, or a portion, of the suspension. Upon receipt of such petition, the director may stay the suspension while he makes such investigation as he deems desirable

and may grant the petition if he is satisfied (a) that the public health, safety and welfare will not be impaired by permitting the licensee to operate during the period set for suspension; (b) the payment of the sum of money will achieve the desired disciplinary purpose; and (c) that it will be possible to determine with reasonable accuracy from the records of the licensee the services which would have been performed under the privilege of the license during the period in which the license would have been suspended.

As to a licensee engaged for hire in the business of pest control, the monetary payment stated in the petition shall be in a specific amount, which is estimated to be the equivalent of 20 percent of the gross receipts of the licensee for each day of the suspension and shall not be less than two hundred fifty dollars ($250) nor more than two thousand five hundred dollars ($2,500).

As to a licensee licensed with a pest control aircraft pilot's certificate, the monetary payment in the petition shall be in a specific amount, which is estimated to be the equivalent of 50 percent of the gross earnings of the licensee for all work performed by him under the privileges of the license for each day of the suspension and shall not be less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

When the decision provides that a portion of the suspension shall be stayed on probationary conditions, the petition shall not apply to the portion of the suspension which is so stayed, nor shall such portion be included in determining the 30-day limitation for eligibility of the petition.

If the petition is accepted, then upon payment by the licensee of the sum specified the director shall enter his order permanently staying all or a portion of the suspension in accordance with the petition.

All payments received pursuant to this section shall be credited to the Department of Agriculture Fund for use in the administration and enforcement of this division.

SEC. 15. Section 11901 of the Food and Agricultural Code is amended to read:

11901. It is unlawful for any person to operate any aircraft in pest control unless the pilot operating the aircraft holds a valid pest control aircraft pilot's certificate issued by the director.

SEC. 2. Section 11902 of the Food and Agricultural Code is amended and renumbered, to read:

11903. A fee of fifteen dollars ($15) shall accompany each application for an initial certificate or renewal of a certificate.

SEC. 3. Section 11902 is added to the Food and Agricultural Code, to read:

11902. Each certificate shall designate the pest control aircraft pilot's status as either a journeyman or an apprentice.

SEC. 4. Section 11903 of the Food and Agricultural Code is amended and renumbered to read:

11905. Before an initial certificate is issued, the applicant for

apprentice or the applicant for journeyman shall pass an examination to demonstrate to the director his ability to legally and safely conduct pest control operations and his knowledge of the nature and effect of materials which are used in pest control.

SEC. 5. Section 11904 is added to the Food and Agricultural Code, to read:

11904. Every certificate shall expire on December 31 of the year for which it is issued. Certificates may be renewed before the expiration date by application to the director and upon payment of the fifteen dollar ($15) fee. A penalty fee of ten dollars ($10) shall be paid by an applicant who applies for renewal after the expiration date.

SEC. 6. Section 11905 of the Food and Agricultural Code is repealed.

SEC. 7. Section 11906 of the Food and Agricultural Code is amended to read:

11906. A journeyman's certificate shall not be issued to any applicant, other than the holder of an apprentice certificate, unless such applicant has had in effect a journeyman's certificate issued by the director within the previous two calendar years.

SEC. 8. Section 11907 of the Food and Agricultural Code is amended to read:

11907. A journeyman's certificate shall not be issued to the holder of an apprentice certificate until the applicant has served as an apprentice under a certificate issued pursuant to this chapter for one year and until the applicant presents to the director satisfactory documentary proof consisting of a declaration or affidavit by the holder of a journeyman's certificate attesting to the applicant's completion of not less than 150 hours of operation of fixed-wing aircraft or 50 hours of operation of nonfixed-wing aircraft within the past two calendar years in pest control activities, together with such other evidence as the director may require.

SEC. 9. Section 11908 of the Food and Agricultural Code is repealed.

SEC. 10. Section 11909 of the Food and Agricultural Code is amended and renumbered to read:

11908. Each applicant for an apprentice certificate shall satisfy the director, through documentary evidence or other suitable information, that the applicant shall conduct pest control activities only under the direct and personal supervision of a person that holds a journeyman's certificate.

SEC. 11. Section 11910 of the Food and Agricultural Code is amended and renumbered to read:

11909 It is unlawful for the holder of an apprentice certificate to conduct pest control activities unless such activities are conducted under the direct and personal supervision of a person that holds a journeyman's certificate

SEC. 12. Section 11911 of the Food and Agricultural Code is amended and renumbered to read:

11910. The director may refuse to issue a certificate to any pest control aircraft pilot and may revoke or suspend the certificate of any such pilot, after a hearing, upon finding that the pilot is not qualified to conduct the pest control operations in accordance with the certificate or that he has violated any provision of this division or Division 7 (commencing with Section 12501) pertaining to pesticides or any regulation adopted pursuant to such provision or any regulation of an agricultural commissioner or any industrial safety order of the Department of Industrial Relations or has not complied with any order of the director or commissioner as authorized by Section 11737.

The director may, pending hearing, suspend or condition the certificate of any pest control aircraft pilot when, upon such investigation as he deems necessary and the receipt of affidavits by the enforcement personnel provided in Section 11501.5 or injured parties, he finds that continuance of the certificate endangers public welfare or safety The director may terminate such suspension or condition upon the taking of such corrective action as he deems satisfactory to assure qualification or compliance with the law or regulations In such event the matter may proceed to hearing as though such action had not been taken.

SEC. 13. Section 11912 of the Food and Agricultural Code is repealed.

SEC. 14 Section 11913 of the Food and Agricultural Code is amended and renumbered to read:

11911 Notwithstanding any other provision of this article, if the holder of a certificate is called to active duty as a member of the armed forces of the United States of America, the holder, upon the termination of such active duty, is entitled to renewal of such certificate in the same category, if he does all of the following:

(a) Makes application to the director.

(b) Pays the renewal fee required by the director.

(c) Demonstrates to the director his ability to conduct pest control operations and his knowledge of the nature and effect of materials which are used in pest control.

SEC. 15. Article 1 5 (commencing with Section 11920) is added to Chapter 5 of Division 6 of the Food and Agricultural Code, to read:

Article 1.5. Registration

11920. It is unlawful for any person to act as a pest control aircraft pilot in any county without first registering with the appropriate county agricultural commissioner.

11921. Each pest control aircraft pilot shall register in person with the agricultural commissioner of the county where he intends to work or with the director if the county does not have an agricultural commissioner. Registration in any additional county may be made in person or by mail on prescribed forms which may be obtained and processed in the county where personal registration is made

11922. Registration shall be renewed annually by all pest control aircraft pilots.

11923. County boards of supervisors may set fees for registration to cover the cost of registering pest control aircraft pilots but in no case shall such fee total more than ten dollars ($10) per year for a pilot who registers in person in the county in which he intends to work, and five dollars ($5) per year for a pilot already registered in another county and who is now registering in an additional county as provided in Section 11921.

11924. A pest control aircraft pilot registration may be refused, revoked, or suspended by the agricultural commissioner for the reasons indicated in Section 11910 for the refusal, revocation, or suspension of a pest control aircraft pilot certificate.

11925. Any person whose registration has been revoked, suspended, or refused may appeal to the director within 10 days for a hearing and the director may sustain, reverse, or modify such revocation, suspension, or refusal

SEC 16 Section 12504 of the Food and Agricultural Code is amended to read:

12504. "Produce" means any food in its raw or natural state which is in such form as to indicate that it is intended for consumer use with or without any or further processing.

SEC. 17. Section 12671 of the Food and Agricultural Code is amended to read:

12671. It is unlawful for any person to pack, ship, or sell any produce that carries spray residue in excess of the permissible tolerance which is established by the director pursuant to this chapter.

SEC. 17.5 Section 12672 is added to the Food and Agricultural Code, to read:

12672. The director or commissioner may prohibit the harvest of any produce when a preharvest interval specified in the registered labeling of a pesticide applied to the produce has not been complied with. Except as provided in Section 12673, such harvest prohibition shall not extend beyond the expiration of the preharvest interval.

SEC. 17.8. Section 12673 is added to the Food and Agricultural Code, to read·

12673. The director or commissioner may prohibit the harvest of any produce that carries spray residue in excess of a permissible tolerance which is established by the director pursuant to this chapter

SEC. 18. Section 12801 of the Food and Agricultural Code is amended to read.

12801. This chapter does not apply to any preparation, drug, or chemical which is intended to be used or sold solely for medicinal or cosmetic use by humans or to commercial feed as defined in Section 14925.

SEC 19. Section 12813 of the Food and Agricultural Code is repealed

SEC. 20. Section 12995 is added to the Food and Agricultural Code, to read:

12995. Except as provided in regulations adopted by the director, it is unlawful for any person, by himself or through another, to possess or use any economic poison which is not registered pursuant to this chapter.

SEC. 21. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, and because self-financing authority is provided in this act to cover costs that may be incurred in carrying on a program or performing a service required to be carried on or performed by this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

CHAPTER 733

An act to amend Section 674 of, and to add Section 671.1 to, the Streets and Highways Code, relating to state highways.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 671.1 is added to the Streets and Highways Code, to read:

671.1. The department may establish a fee schedule and charge a fee for the issuance of permits pursuant to the provisions of this chapter, except that no such fee shall be charged by the department to any public corporation. The fee schedule established by the department shall not produce a total estimated revenue in excess of the estimated total cost to the department for administering the provisions of this chapter, excluding the cost of issuing permits exempted by statute or regulation from the payment of fees. Funds collected pursuant to this section shall be deposited in the State Highway Account in the State Transportation Fund.

SEC. 2. Section 674 of the Streets and Highways Code is amended to read:

674. The department may, but is not required to, supervise any work done under any permit, issued under the provisions of this chapter in which event the permittee shall, in addition to any fees charged pursuant to Section 671.1, pay the reasonable cost of such supervision to the department, but no cost of supervision shall be charged by the department to any public corporation.

CHAPTER 734

An act to amend Section 1420.15 of the Labor Code, relating to fair employment practices.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 1420.15 of the Labor Code is amended to read:

1420.15. Every employer in this state, except a public agency, shall permit any employee who indicates in writing a desire in a reasonable time and can demonstrate the ability to do so, to continue his employment beyond the normal retirement date contained in any private pension or retirement plan.

Such employment shall continue so long as the employee demonstrates his ability to perform the functions of the job adequately and the employer is satisfied with the quality of work performed.

This section shall not be construed to require any change in funding, benefit levels, or formulas of any existing retirement plan, or to require any employer to increase such employer's payments for the provision of insurance benefits contained in any existing employee benefit or insurance plan, by reason of such employee's continuation of employment beyond the normal retirement date, or to require any changes in any bona fide retirement or pension programs or existing collective-bargaining agreements during the life of the contract, or for two years after the effective date of this section, whichever occurs first.

Any employee indicating such desire and continuing such employment shall give the employer written notice in reasonable time, of intent to retire or terminate when such retirement or termination occurs after the employee's normal retirement date.

Nothing in this section or Section 1420.1 shall be construed to prohibit compulsory retirement of the following:

(a) Prior to July 1, 1982, of any employee who has attained 65 years of age and is serving under a contract of unlimited tenure, or similar arrangement providing for unlimited tenure at an institution of higher education as defined by Section 1201(a) of the Federal Higher Education Act of 1965.

On and after July 1, 1982, this subdivision shall only apply to an employee who has attained 70 years of age.

(b) Of any employee who has attained 65 years of age and who for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profitsharing, savings, or deferred

compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least twenty-seven thousand dollars ($27,000).

CHAPTER 735

An act to amend Sections 850, 976, and 1462.2 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 850 of the Penal Code is amended to read:

850. (a) A telegraphic copy of a warrant or an abstract of a warrant may be sent by telegraph, teletype, or any other electronic devices, to one or more peace officers, and such copy or abstract is as effectual in the hands of any officer, and he shall proceed in the same manner under it, as though he held the original warrant issued by a magistrate or the issuing authority or agency.

(b) An abstract of the warrant as herein referred to shall contain the following information: the warrant number, the charge, the court or agency of issuance, the subject's name, address and description, the bail, the name of the issuing magistrate or authority, and if the offense charged is a misdemeanor, whether the warrant has been certified for night service.

(c) When the subject of a written or telegraphic warrant or abstract of warrant is in custody on another charge, the custodial officer shall, immediately upon receipt of information as to the existence of any such warrant or abstract, obtain and deliver a written copy of the warrant or abstract to the subject and shall inform him of his rights under Section 1381, where applicable, to request a speedy trial and under Section 858.7 relating to Vehicle Code violations.

SEC. 2. Section 976 of the Penal Code is amended to read:

976. (a) When the accusatory pleading is filed, the defendant must be arraigned thereon before the court in which it is filed, unless the action is transferred to some other court for trial; provided, that a defendant arrested in another county shall be informed of his right to be taken before a magistrate in the arresting county for the purpose of being admitted to bail, as provided in Section 821 or 822.

(b) In any county of the first or third class, if the defendant is to be arraigned in municipal court and is in custody, upon the approval of both the presiding judge of the municipal court in which the accusatory pleading is filed and the presiding judge of the municipal court within the county nearest to the place in which he is held in custody, he may also be arraigned before the municipal court within

the county nearest to the place in which he is held in custody. Prior to being taken from the place where he is in custody to the place where he is to be arraigned, such defendent shall be allowed to make three completed telephone calls, at no expense to such defendant, in addition to any other telephone calls which such defendant is entitled to make pursuant to law.

SEC. 3. Section 1462.2 of the Penal Code is amended to read:

1462.2. Except as otherwise provided in the Vehicle Code, the proper court for the trial of criminal cases amounting to misdemeanor shall be determined as follows: Any municipal or justice court, having jurisdiction of the subject matter of the case, established in the county within which the offense charged was committed, is the proper court for the trial of the case; otherwise, the court having jurisdiction of the subject matter, nearest to the place where the offense was committed, is the proper court for the trial of the case

If an action or proceeding is commenced in a court having jurisdiction of the subject matter thereof other than the court herein designated as the proper court for the trial, the action may, notwithstanding, be tried in the court where commenced, unless the defendant, at the time he pleads, requests an order transferring the action or proceeding to the proper court. If after such request it appears that the action or proceeding was not commenced in the proper court, the court shall order the action or proceeding transferred to the proper court. The judge must, at the time of arraignment, inform the defendant of his right to be tried in the district wherein the offense was committed.

CHAPTER 736

An act to amend Section 12958 of the Insurance Code, relating to insurance.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 12958 of the Insurance Code is amended to read:

12958. (a) There is in the office of the commissioner the local government information and statistical analysis section which shall collect relevant data received from insurers pursuant to subdivision (b) in order that public entities will be able to assess past insurance programs and to consider alternatives to full insurance coverage.

(b) Each insurer transacting insurance, as defined in Sections 108 and 116, covering liability for any public entity, as defined in Section 811.2 of the Government Code, where the public entity is the named

insured, shall report the following statistics to the commissioner by type of public entity and by type of claim, on a date not later than July 1 of each calendar year:

(1) The total number of insureds written during the immediately preceding calendar year.

(2) The total amount of premiums received from insureds, both written and earned (as reported in the annual statement), during the immediately preceding calendar year.

(3) The number of claims reported to the insurer for the first time separately by the year the claim occurred, and, the number of claims reported closed during a previous calendar year which were reopened separately by the year the claim occurred.

(4) The total number of claims outstanding, together with the monetary amount reserved for loss and allocated loss expense, in the annual statement as of December 31 of the calendar year next preceding, separately stated by the year the claim occurred

(5) (A) The number of claims closed with payment to the claimant during the calendar year next preceding, to be reported by the year the claim occurred, (B) the total monetary amount paid thereon, reported by the year the claim occurred, and (C) the total allocated loss expense paid thereon, reported by the year the claim occurred.

(6) The monetary amount paid on claims during the calendar year next preceding, to be reported separately by the year the claim occurred, with allocated loss expense paid, to be reported separately by the year the claim occurred.

(7) The number of claims closed without payment to the claimant during the calendar year next preceding, by the year the claim occurred, and the allocated loss expense paid thereon, separately by the year the claim occurred.

(8) The monetary amount reserved in the annual statement for the calendar year next preceding on claims incurred but not reported to the insurer.

(9) The number of lawsuits filed against the insurers insureds during the calendar year next preceding, to be separately reported by the year the claim occurred.

(10) A distribution by size of payment for those claims closed during the calendar year next preceding, showing the number of claims and total amount paid for each monetary category, as determined by the commissioner.

As used in this section, the type of claims to be reported shall include, but not be limited to, workers' compensation, liability, personal injury other than automobile, property damage other than automobile liability, liability based upon the dangerous condition of public property, and other general liability claims.

CHAPTER 737

An act to amend Sections 202, 2105, 2106, and 2107 of, and to add Sections 201.5 and 2106.5 to, the Corporations Code, and to amend Sections 430, 881, 882, and 884 of, and to add Sections 726, 881.3, and 881.5 to, the Insurance Code, relating to insurance.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 201.5 is added to the Corporations Code, to read:

201.5. The Secretary of State shall not file articles in which the business is to be an insurer unless the certificate of the Insurance Commissioner approving the corporate name is attached thereto.

SEC. 2. Section 202 of the Corporations Code is amended to read:

202. The articles of incorporation shall set forth:

(a) The name of the corporation; provided, however, that in order for the corporation to be subject to the provisions of this division applicable to a close corporation (Section 158), the name of the corporation must contain the word "corporation", "incorporated" or "limited" or an abbreviation of one of such words.

(b) (1) The applicable one of the following statements:

(i) The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code; or

(ii) The purpose of the corporation is to engage in the profession of _____ (with the insertion of a profession permitted to be incorporated by the California Corporations Code) and any other lawful activities (other than the banking or trust company business) not prohibited to a corporation engaging in such profession by applicable laws and regulations.

(2) In case the corporation is a corporation subject to the Banking Law, the articles shall set forth a statement of purpose which is prescribed in the applicable provision of the Banking Law.

(3) In case the corporation is a corporation subject to the Insurance Code as an insurer, the articles shall additionally state that the business of the corporation is to be an insurer.

The articles shall not set forth any further or additional statement with respect to the purposes or powers of the corporation, except by way of limitation or except as expressly required by any law of this state other than this division or any federal or other statute or regulation (including the Internal Revenue Code and regulations thereunder as a condition of acquiring or maintaining a particular

status for tax purposes).

(c) The name and address in this state of the corporation's initial agent for service of process in accordance with subdivision (b) of Section 1502.

(d) If the corporation is authorized to issue only one class of shares, the total number of shares which the corporation is authorized to issue

(e) If the corporation is authorized to issue more than one class of shares, or if any class of shares is to have two or more series:

(1) The total number of shares of each class the corporation is authorized to issue, and the total number of shares of each series which the corporation is authorized to issue or that the board is authorized to fix the number of shares of any such series;

(2) The designation of each class, and the designation of each series or that the board may determine the designation of any such series; and

(3) The rights, preferences, privileges and restrictions granted to or imposed upon the respective classes or series of shares or the holders thereof, or that the board, within any limits and restrictions stated, may determine or alter the rights, preferences, privileges and restrictions granted to or imposed upon any wholly unissued class of shares or any wholly unissued series of any class of shares. As to any series the number of shares of which is authorized to be fixed by the board, the articles may also authorize the board, within the limits and restrictions stated therein or stated in any resolution or resolutions of the board originally fixing the number of shares constituting any series, to increase or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series subsequent to the issue of shares of that series. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

SEC. 3. Section 2105 of the Corporations Code is amended to read:

2105. (a) A foreign corporation shall not transact intrastate business without having first obtained from the Secretary of State a certificate of qualification. To obtain such certificate it shall file, on a form prescribed by the Secretary of State, a statement and designation signed by a corporate officer stating:

(1) Its name and the state or place of its incorporation or organization.

(2) The address of its principal executive office.

(3) The address of its principal office within this state.

(4) The name of an agent upon whom process directed to the corporation may be served within this state. Such designation shall comply with the provisions of subdivision (b) of Section 1502.

(5) Its irrevocable consent to service of process directed to it upon the agent designated and to service of process on the Secretary of

State if the agent so designated or the agent's successor is no longer authorized to act or cannot be found at the address given.

(6) If it is a corporation which will be subject to the Insurance Code as an insurer, it shall so state such fact.

(b) Annexed to such statement and designation shall be a certificate by an authorized public official of the state or place of incorporation of the corporation to the effect that such corporation is an existing corporation in good standing in that state or place or, in the case of an association, an officers' certificate stating that it is a validly organized and existing business association under the laws of a specified foreign jurisdiction.

(c) Before it may be designated by any foreign corporation as its agent for service of process, any corporate agent must comply with Section 1505.

SEC. 4. Section 2106 of the Corporations Code is amended to read:

2106. (a) Subject to the provisions of subdivision (b), upon payment of the fees required by law the Secretary of State shall file the statement and designation prescribed in Section 2105 and shall issue to the corporation a certificate of qualification stating the date of filing of said statement and designation and that the corporation is qualified to transact intrastate business, subject, however, to any licensing requirements otherwise imposed by the laws of this state.

(b) No foreign corporation having a name which would not be available pursuant to subdivision (b) of Section 201 to a new corporation organized under this division shall transact intrastate business in this state or qualify to do so under this chapter or file an amended statement and designation containing such name unless either. (1) it obtains and files an order from a court of competent jurisdiction permanently enjoining the other corporation having a conflicting name from doing business in this state under that name; or (2) the Secretary of State finds, upon proof by affidavit or otherwise as the Secretary of State may determine, that the business to be conducted in this state by the foreign corporation is not the same as or similar to the business being conducted by the corporation (or to be conducted by the proposed corporation) with whose name it may conflict and that the public is not likely to be deceived, and the foreign corporation agrees that it will transact business in this state under an assumed name disclosed to the Secretary of State and that it will use such assumed name in all of its dealings with the Secretary of State and in the conduct of its affairs in this state Such assumed name may be its name with the addition of some distinguishing word or words acceptable to the Secretary of State or a name available for the name of a domestic corporation pursuant to subdivision (b) of Section 201 A corporation which has made such an agreement with the Secretary of State shall not do business in this state except under the name agreed upon, so long as the agreement remains in effect.

This subdivision shall not apply to any corporation which is subject

to the Insurance Code as an insurer unless the insurer has first obtained from the Insurance Commissioner a certificate approving the assumed name.

SEC. 5. Section 2106.5 is added to the Corporations Code, to read:

2106.5. The Secretary of State shall not file any statement and designation pursuant to Section 2106 or any amended statement and designation pursuant to Section 2107, where it appears that the business is that of an insurer subject to the Insurance Code unless a certificate of the Insurance Commissioner approving the corporate name is attached thereto.

SEC. 6 Section 2107 of the Corporations Code is amended to read:

2107. (a) If any foreign corporation qualified to transact intrastate business shall change its name, the address of its principal office in this state, the address of its principal executive office or its agent for the service of process, or if the stated address of any natural person designated as agent is changed, it shall file, on a form prescribed by the Secretary of State, an amended statement and designation signed by a corporate officer setting forth the change or changes made. In the case of a change of name, the amended statement and designation shall set forth the name relinquished as well as the new name assumed and there shall be annexed to the amended statement and designation a certificate of an authorized public official of its state or place of incorporation that such change of name was made in accordance with the laws of that state or place or, in the case of an association, an officers' certificate stating that such change of name was made in accordance with its declaration of trust.

(b) If the change includes a change of name, or a change affecting a fictitious name pursuant to Section 2106, upon the filing of the amended statement and designation the Secretary of State shall issue a new certificate of qualification.

(c) If the change includes a change of name of an insurer subject to the Insurance Code, the form shall include a statement that the corporation is such an insurer if it does not already so appear.

SEC. 7. Section 430 of the Insurance Code is amended to read:

430. The policies issued by every insurer shall be entitled by its own name or a name approved by the commissioner under Section 881 or 882, printed on each policy in large bold type in at least as large as any other size type used in the policy or on the face page.

SEC. 8 Section 726 is added to the Insurance Code, to read:

726 The commissioner shall notify the Secretary of State of any refusal to issue a certificate of authority to transact insurance to an applicant therefor.

SEC. 9 Section 881 of the Insurance Code is amended to read:

881 The commissioner shall require the name or any changed name of every insurer (including reciprocal or interinsurance exchanges), every attorney in fact, every motor club and every underwritten title company to be submitted to him by written

application and approved by him before such name is used in this state for business purposes. If approved, the commissioner shall issue his official certificate approving the same, and when appropriate, reserving the name for the following time periods, which shall commence on the date of the approval:

(1) One year where the applicant is newly formed, or where the application is filed on behalf of an entity to be formed, under the laws of this state.

(2) 180 days and during the pendency in good faith of an application for certificate of authority in the case of a foreign or alien applicant.

(3) 90 days in the case of an admitted entity requesting authority to change the name under which it will conduct its business with the public in this state.

Except in the case where an applicant has already paid a fee on a pending application for admission, the commissioner shall collect a twenty-five dollar ($25) fee for filing each application for name approval and reservation An application for name approval may contain not more than three names in the order of applicant's preference and the commissioner's approval shall be limited to only one name submitted by any one application.

The certificate of approval shall be attached to the articles of incorporation before the Secretary of State shall file such articles or any amended articles. The commissioner may reject any name so submitted when it is an interference with, or too similar to one already appropriated, or when it is likely to mislead the public in any respect. In the event of such a rejection, the applicant shall legally change its name to one approved by the commissioner or, if a foreign or alien insurer, may arrange to conduct any business it may do with the public in California under an approved name as an operating name, identifying itself under both its true name and operating name in the conduct of all official business with the commissioner.

Notwithstanding the provisions of Section 1282 and 12221 of this code, the provisions of this section shall apply to reciprocal insurers, including their attorney in fact, and shall apply to motor clubs, respectively.

SEC. 9.5 Section 881 of the Insurance Code is amended to read

881. The commissioner shall require the name or any changed name of every insurer (including reciprocal or interinsurance exchanges), every attorney in fact, every motor club and every underwritten title company to be submitted to him by written application and approved by him before such name is used in this state for business purposes. If approved, the commissioner shall issue his official certificate approving the same, and when appropriate, reserving the name for the following time periods, which shall commence on the date of the approval.

(1) One year where the applicant is newly formed, or where the application is filed on behalf of an entity to be formed, under the laws of this state

(2) 180 days and during the pendency in good faith of an application for certificate of authority in the case of a foreign or alien applicant.

(3) 90 days in the case of an admitted entity requesting authority to change the name under which it will conduct its business with the public in this state.

Except in the case where an applicant has already paid a fee on a pending application for admission, the commissioner shall collect a fifty dollar ($50) fee for filing each application for name approval and reservation. An application for name approval may contain not more than three names in the order of applicant's preference and the commissioner's approval shall be limited to only one name submitted by any one application.

The certificate of approval shall be attached to the articles of incorporation before the Secretary of State shall file such articles or any amended articles. The commissioner may reject any name so submitted when it is an interference with, or too similar to one already appropriated, or when it is likely to mislead the public in any respect. In the event of such a rejection, the applicant shall legally change its name to one approved by the commissioner or, if a foreign or alien insurer, may arrange to conduct any business it may do with the public in California under an approved name as an operating name, identifying itself under both its true name and operating name in the conduct of all official business with the commissioner.

Notwithstanding the provisions of Sections 1282 and 12221 of this code, the provisions of this section shall apply to reciprocal insurers, including their attorneys in fact, and shall apply to motor clubs, respectively.

SEC 10 Section 881.3 is added to the Insurance Code, to read:

881.3. Upon approval of an applicant's name by the commissioner, and the issuance of a certificate approving the same, the applicant may apply to the Secretary of State for the issuance of a certificate of reservation of corporate name for the same periods specified in Section 881.

SEC. 11. Section 881.5 is added to the Insurance Code, to read:

881.5. If through inadvertance or otherwise a corporation does not comply with Section 881 of the Insurance Code, or with Sections 201.5, 202, 2105, 2106, 2106.5, and 2107 of the Corporations Code when any of such sections is applicable, any corporation lawfully engaged in the insurance business in this state may bring an action for judicial relief against such corporation by means of any remedy afforded by law Such action may be based upon any of the grounds by reason of which the commissioner could or would have denied application for approval of the corporate name of the noncomplying corporation. In such an action the court may order such corporate defendant to adopt a new name or an operating name, when permissible, acceptable to both the Secretary of State and the commissioner, by filing a certificate of amendment or by filing an amended statement and designation with the Secretary of State

SEC. 12. Section 882 of the Insurance Code is amended to read:

882. When two or more insurers propose to issue an underwriter's policy, each insurer must first file an application with the commissioner for approval and registration of the name or title under which the policy is to be issued. The commissioner may reject any name submitted when it is an interference with, or too similar to, one already appropriated or when it is likely to mislead the public in any respect. In such case the application may be amended to submit another or other names.

The commissioner shall charge and collect in advance a fee of seventeen dollars and fifty cents ($17.50) from each insurer filing an application for approval and registration of such name or title, or for filing any amendment thereto.

SEC. 12.5. Section 882 of the Insurance Code is amended to read:

882. When two or more insurers propose to issue an underwriter's policy, each insurer must first file an application with the commissioner for approval and registration of the name or title under which the policy is to be issued. The commissioner may reject any name submitted when it is an interference with, or too similar to, one already appropriated or when it is likely to mislead the public in any respect. In such case the application may be amended to submit another or other names.

The commissioner shall charge and collect in advance a fee of twenty-five dollars ($25) from each insurer filing an application for approval and registration of such name or title, or for filing any amendment thereto.

SEC. 13. Section 884 of the Insurance Code is amended to read

884 Unless renewed, the approval and registration of all underwriters' names shall expire at 12:01 a.m July 1st of each even-numbered year. Renewal may be secured by filing with the commissioner an application therefor, together with a fee of ten dollars ($10). Such an application shall be filed during the month of May preceding such July 1st. The commissioner shall furnish the application forms for such renewal. The commissioner shall, upon receipt of a proper renewal application and payment of the filing fee therefor, renew the approval and registration of the underwriter's name unless he finds that:

(a) The insurer has abandoned use of said underwriter's name;

(b) The insurer is actually using or publicizing the name in any manner after it has discontinued the issuance of underwriter's policies bearing such name;

(c) The insurer has used such underwriter's name in a manner which has resulted in misrepresentation or fraud,

(d) The insurer has used such underwriter's name in a manner which would violate any provision of law relating to the conduct of its business;

(e) The insurer has secured such underwriter's name through misrepresentation or concealment of material information, or

(f) Reasons exist which would warrant refusal of approval or

registration if the same were being initially requested.

If the commissioner so finds he shall advise all insurers using said underwriter's name in writing that the renewal application is denied and set forth with particularity the reasons for the denial. Such denial shall be effective thirty (30) days after mailing of such advice to the insurer unless within such thirty (30) days the insurer requests a hearing. In this event the advice of denial shall constitute the commissioner's opening pleading for the purpose of the hearing, which shall be deemed denied by the insurer. The insurer if it elects may within ten (10) days file additional written response. The hearing shall be noticed and commenced within a reasonable time. During said thirty (30) days, and, if request for hearing be filed until the termination of such proceeding, the insurer may continue the use of the underwriter's name and the issuance of policies thereunder provided timely renewal application has been filed and the filing fee paid.

SEC. 14. It is the intent of the Legislature, if this bill and Assembly Bill 711 are both chaptered and become effective January 1, 1980, both bills amend Section 881 of the Insurance Code, and this bill is chaptered after Assembly Bill 711, that the amendments to Section 881 proposed by both bills be given effect and incorporated in Section 881 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 711 are both chaptered and become effective January 1, 1980, both amend Section 881, and Assembly Bill 711 is chaptered before this bill, in which case Section 9 of this act shall not become operative.

SEC 15 It is the intent of the Legislature, if this bill and Assembly Bill 711 are both chaptered and become effective January 1, 1980, both bills amend Section 882 of the Insurance Code, and this bill is chaptered after Assembly Bill 711, that the amendments to Section 882 proposed by both bills be given effect and incorporated in Section 882 in the form set forth in Section 12.5 of this act. Therefore, Section 12.5 of this act shall become operative only if this bill and Assembly Bill 711 are both chaptered and become effective January 1, 1980, both amend Section 882, and Assembly Bill 711 is chaptered before this bill, in which case Section 12 of this act shall not become operative

SEC. 16 The Legislature hereby declares its intent that Section 11 of this act adding Section 881.5 to the Insurance Code is procedural and not substantive, and that Sections 7, 9, and 11 of this act shall not have retroactive effect

CHAPTER 738

An act to amend Sections 11773, 11788, 11790, 11793, 11797, and 11800 of, to add Sections 11800.1, 11800.2, 11872, 11873, and 11874 to, and to repeal Sections 11789, 11791, 11792, 11795, 11796, 11798, and 11799 of, the Insurance Code, relating to the State Compensation Insurance Fund.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 11773 of the Insurance Code is amended to read:

11773. The fund shall be organized as a public enterprise fund.

SEC. 2. Section 11788 of the Insurance Code is amended to read:

11788. The State Treasurer shall be custodian of all securities belonging to the State Compensation Insurance Fund, except as otherwise provided in this chapter. He shall be liable on his official bond for the safekeeping thereof.

SEC. 3. Section 11789 of the Insurance Code is repealed.

SEC. 4. Section 11790 of the Insurance Code is amended to read:

11790. All securities belonging to the fund shall be delivered to the State Treasurer and held by him until otherwise disposed of as provided in this chapter. Upon delivery of such securities into the custody of the State Treasurer, such securities shall be credited by the State Treasurer to the fund.

SEC. 5 Section 11791 of the Insurance Code is repealed.

SEC. 6. Section 11792 of the Insurance Code is repealed.

SEC. 7. Section 11793 of the Insurance Code is amended to read.

11793. Expenditures made by the State Compensation Insurance Fund are exempted from the provisions of Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code.

SEC. 8. Section 11795 of the Insurance Code is repealed.

SEC. 9. Section 11796 of the Insurance Code is repealed

SEC. 10. Section 11797 of the Insurance Code is amended to read:

11797. The board of directors shall cause all moneys in the State Compensation Insurance Fund which are in excess of current requirements to be invested and reinvested, from time to time, in the same manner as provided for private insurance carriers pursuant to Article 3 (commencing with Section 1170) of Chapter 2 of Part 2 of Division 1.

SEC 11 Section 11798 of the Insurance Code is repealed.

SEC. 12. Section 11799 of the Insurance Code is repealed

SEC. 13. Section 11800 of the Insurance Code is amended to read

11800. All moneys in the State Compensation Insurance Fund, in excess of current requirements and not otherwise invested, may be deposited by the board of directors from time to time in financial

institutions authorized by law to receive deposits of public moneys.

SEC. 13.3. Section 11800.1 is added to the Insurance Code, to read:

11800.1. The board of directors may, with the approval of the State Treasurer, authorize the establishment of an account or fund in the State Treasury in the name of the State Compensation Insurance Fund, but such moneys deposited with the State Treasurer are not state moneys within the intent of Section 16305.2 of the Government Code.

SEC. 13.6. Section 11800.2 is added to the Insurance Code, to read:

11800.2. The State Controller shall keep a special ledger account pertaining to the State Compensation Insurance Fund. In the State Controller's general ledger this account may appear as a cash account, like other accounts of funds in the State Treasury, and only the actual cash credited or deposited to the credit of the State Compensation Insurance Fund shall be entered in the account.

SEC. 14. Section 11872 is added to the Insurance Code, to read:

11872. The fund may annually enter into agreements with state agencies for service to be rendered to the fund. Such state agencies include, but shall not be limited to: the Department of Finance, Department of General Services, State Personnel Board, and the Public Employees' Retirement System. If such agencies and the fund cannot agree upon the cost of services provided by such agreements, the State Board of Control shall be requested to arrive at an equitable settlement.

SEC. 15 Section 11873 is added to the Insurance Code, to read:

11873. The fund shall not be subject to the provisions of the Government Code made applicable to state agencies generally or collectively, with the exception of Division 4 (commencing with Section 3512) of Title 1 of, and Division 5 (commencing with Section 18000) of Title 2 of, the Government Code, unless the section specifically names the fund as an agency to which the provision applies.

SEC 16. Section 11874 is added to the Insurance Code, to read:

11874. On the effective date of this act the Controller shall draw his warrant in favor of the State Compensation Insurance Fund for the total amount of the funds in the custody of the Treasurer belonging to the State Compensation Insurance Fund and the Treasurer shall pay such warrant.

CHAPTER 739

An act to add Chapter 18 (commencing with Section 22430) to Division 8 of the Business and Professions Code, and to add Section 529a to the Penal Code, relating to identification cards

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Chapter 18 (commencing with Section 22430) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 18. IDENTIFICATION CARDS

22430. (a) No deceptive identification document shall be manufactured, sold, or offered for sale unless there is at the bottom of the face of the document, in not less than 14-point type and printed conspicuously on the document, the following statement:

NOT A GOVERNMENT DOCUMENT

and, also printed conspicuously on the document, the name of the manufacturer.

(b) As used in this section, "deceptive identification document" means any document not issued by a governmental agency of this state, another state, or the federal government, which purports to be, or which might deceive an ordinary reasonable person into believing that it is, a document issued by such an agency, including, but not limited to, a driver's license, identification card, birth certificate, passport, or Social Security card

(c) Any person who violates or proposes to violate this section may be enjoined by any court of competent jurisdiction. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any person

(d) Any person who violates the provisions of subdivision (a) who knows or reasonably should know that such deceptive identification document will be used for fraudulent purposes is guilty of a misdemeanor.

SEC. 2. Section 529a is added to the Penal Code, to read:

529a. Every person who manufactures, produces, sells, offers, or transfers to another any document purporting to be either a certificate of birth or certificate of baptism, knowing such document to be false or counterfeit, or every person who offers, displays, or has in his possession any false or counterfeit certificate of birth or certificate of baptism, or any genuine certificate of birth which describes a person then living or deceased, with intent to represent himself as another or to conceal his true identity, is guilty of a misdemeanor.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act

pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 740

An act making an appropriation to the Department of Justice to pay the claim of Alonzo Wright, et al., and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 The sum of two hundred forty-seven thousand one dollars ($247,001) is hereby appropriated from the General Fund to the Department of Justice for the payment of the claims of Alonzo Wright, et al., against the State of California in the action entitled Alonzo Wright, et al v. State of California, et al., No. C184222, brought in the Superior Court of the County of Los Angeles.

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

In order to pay the claim of Alonzo Wright and others, and end the hardships to these persons as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 741

An act to amend Sections 5561 and 5565 of the Business and Professions Code, relating to architects, and making an appropriation therefor.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 5561 of the Business and Professions Code is amended to read:

5561 All accusations against licensees charging the holder of a certificate issued under this chapter with the commission of any act constituting a cause for disciplinary action shall be filed with the

board within five years after the board discovers, or through the use of reasonable diligence should have discovered, the act or omission alleged as the ground for such disciplinary action, whichever occurs first but not more than 10 years after the act or omission alleged as the ground for disciplinary action. However, with respect to an accusation alleging a violation of Section 5579, the accusation may be filed within three years after the discovery by the board of the alleged facts constituting the fraud or misrepresentation prohibited by Section 5579.

SEC. 2. Section 5565 of the Business and Professions Code is amended to read:

5565. The decision may:

(a) Provide for the immediate complete suspension by the holder of the certificate of all operations as an architect during the period fixed by the decision.

(b) Permit the holder of the certificate to complete any or all contracts for the performance of architectural services shown by evidence taken at the hearing to be then uncompleted.

(c) Impose upon the holder of the certificate compliance with such specific conditions as may be just in connection with his operations as an architect disclosed at the hearing and may further provide that until such conditions are complied with no application for restoration of the suspended or revoked certificate shall be accepted by the board.

(d) Assess a fine not in excess of five thousand dollars ($5,000) against the holder of a certificate for any of the causes specified in Section 5577 A fine may be assessed in lieu of or in addition to a suspension or revocation. All fines collected pursuant to this subdivision shall be deposited to the credit of the California State Board of Architectural Examiners Fund.

CHAPTER 742

An act to add Sections 5588, 5589, and 5590, to the Business and Professions Code, relating to architecture.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 5588 is added to the Business and Professions Code, to read

5588 Every insurer providing professional liability insurance to a holder of a certificate, and every certificate holder, shall send a complete report to the board on any settlement or arbitration award in excess of five thousand dollars ($5,000) of a claim or action for damages caused by the certificate holder's fraud, deceit, negligence,

incompetency or recklessness in practice. Such report shall be sent within 30 days after the settlement agreement has been consented to by the insured or within 30 days after service of such arbitration award on the parties.

SEC. 2. Section 5589 is added to the Business and Professions Code, to read:

5589. Every settlement or arbitration award in excess of five thousand dollars ($5,000) of a claim or action for damages caused by the certificate holder's fraud, deceit, negligence, incompetency or recklessness in practice when the certificate holder does not possess professional liability insurance as to such claim shall, within 30 days after any settlement agreement has been consented to by the certificate holder or 30 days after service of such arbitration award on the parties, be reported to the board. A complete report shall be made by appropriate means by the certificate holder or his counsel, with a copy of such communication to be sent to the claimant through his counsel if he is so represented, or directly if he is not. If, within 45 days of the conclusion of such settlement agreement or service of such arbitration award on the parties, counsel for the claimant, or if he is not represented by counsel, the claimant himself, has not received a copy of the report, he shall himself make such a complete report. Failure of the certificate holder or claimant or, if represented by counsel, their counsel, to comply with the provisions of this section shall be a misdemeanor punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance shall be a misdemeanor punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

SEC. 3. Section 5590 is added to the Business and Professions Code, to read:

5590. Within 10 days after a judgment by a court of this state that a certificate holder has committed a crime or is liable for any death, personal or property injury or loss caused by the certificate holder's fraud, deceit, negligence, incompetency or recklessness in practice, the clerk of the court which rendered such judgment shall report the same to the board. However, if the judge who tried the matter finds that it does not relate to the defendant's professional competence or integrity, the judge may, by order, dispense with the requirement that the report be sent.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to those sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of

subdivision (c) of Section 2253.2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act.

CHAPTER 743

An act to amend Sections 9402, 9407, 9700, 9702, and 9703 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 9402 of the Vehicle Code is amended to read:

9402. An additional fee of three dollars ($3) shall be charged for each application for quarterly or partial year registration, or renewal thereof, whenever a person pays the fee under Section 9400 on a quarterly or partial year basis.

SEC. 2. Section 9407 of the Vehicle Code is amended to read:

9407. Upon application for registration made after the first month of any registration year, or if the vehicle is registered on a quarterly or partial year basis, after the first month following expiration of the last issued registration certificates, the fee required under Section 9400 shall be reduced proportionately for each month which shall have elapsed since the expiration of the last issued registration certificate, if the vehicle has not been operated, moved, or left standing upon any highway during the elapsed time without payment of the required fee.

SEC. 3. Section 9700 of the Vehicle Code is amended to read:

9700. With respect to vehicles subject to additional registration fees under Section 9400, a proportionate share of such fees may be paid pursuant to either of the following:

(a) For a quarterly registration period, which periods shall expire on March 31, June 30, September 30, and December 31 of each year.

(b) In consecutive monthly increments for any partial period of three months or more but less than one year, irrespective of calendar quarters.

SEC. 4. Section 9702 of the Vehicle Code is amended to read:

9702 Every quarterly or partial year vehicle registration and every certificate or insignia issued under this section shall expire at midnight on the last day of the quarter or period for which issued. The department may, upon payment of the proper fees, renew the registration of the vehicle for the next succeeding quarter or partial

year or for the remainder of the registration year.

SEC. 5. Section 9703 of the Vehicle Code is amended to read:

9703 (a) Application for quarterly or partial year registration in conjunction with an application for original California registration shall be made by the owner within 20 days of the date the vehicle first becomes subject to California registration Any such application submitted subsequent thereto shall be refused quarterly or partial year registration and the vehicle shall be subject to payment of the full fees for the registration year. In addition to the fee for the registration year, a penalty as specified in Section 9554 shall be added to the application for registration.

(b) Any application to renew registration for a quarterly or partial year period, or for the remainder of the registration year, shall be made prior to midnight of the expiration date of the last issued registration certificate. Application shall be made upon presentation of the last issued registration card or of a potential registration card issued by the department for use at the time of renewal and by payment of the proper quarterly or partial year fees or, if the renewal is for the remainder of the registration year, by payment of the annual fee provided by Section 9400, as reduced pursuant to Section 9407. Any such application submitted subsequent thereto which is not accompanied by a certificate of nonoperation, as provided in Section 9705, shall be refused quarterly or partial year registration and shall be subject to payment of the full fees for the registration year or remainder thereof. In addition to the fee for the registration year or remainder thereof, a penalty as specified in Section 9554 shall be added to the application for registration.

CHAPTER 744

An act to add Section 30005.5 to the Public Resources Code, relating to coastal zone resources

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 30005.5 is added to the Public Resources Code, to read·

30005.5. Nothing in this division shall be construed to authorize any local government, or to authorize the commission to require any local government, to exercise any power it does not already have under the Constitution and laws of this state or that is not specifically delegated pursuant to Section 30519.

CHAPTER 745

An act to repeal Sections 7 and 8 of Chapter 1333 of the Statutes of 1968, relating to San Francisco Harbor.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 7 of Chapter 1333 of the Statutes of 1968 is repealed

SEC. 2. Section 8 of Chapter 1333 of the Statutes of 1968 is repealed.

SEC. 3. The Director of Finance shall amend the agreement entered into pursuant to Section 2 of Chapter 1333 of the Statutes of 1968 to conform such agreement with the provisions of this act.

CHAPTER 746

An act to add and repeal Section 1031.5 to the Code of Civil Procedure, to amend, add, and repeal Sections 730 and 731 of the Evidence Code, and to amend, add, and repeal Section 68092.5 of the Government Code, relating to court-appointed experts.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 1031.5 is added to the Code of Civil Procedure, to read.

1031.5 (a) In any civil action in which an expert is appointed pursuant to Section 730 of the Evidence Code, if the court, in fixing the compensation of such expert, issues pursuant to Section 731 of the Evidence Code an order directing the county in which such action or proceeding is pending to pay such compensation, the order shall also provide that the county shall be allowed reimbursement of such compensation as costs, whether or not the county is a party, and that such costs shall be apportioned to the parties as the court deems fair and just, or to the party to whom costs are taxed as provided in subdivisions (c) and (d) of Section 998. The order shall be included in the judgment.

(b) Any order for appointment of an expert shall include a provision that, in the event the case does not go to judgment because of settlement or otherwise, costs incurred by the appointment of such expert shall be apportioned and charged to the several parties in such proportion as the court may determine. Such costs shall be

paid prior to the entry of any dismissal.

This section shall remain in effect only until January 1, 1983, and, as of such date, is repealed.

SEC. 2. Section 730 of the Evidence Code is amended to read:

730. (a) When it appears to the court, at any time before or during the trial of an action, that expert evidence is or may be required by the court or by any party to the action, the court on its own motion or on motion of any party may appoint one or more experts to investigate, to render a report as may be ordered by the court, and to testify as an expert at the trial of the action relative to the fact or matter as to which such expert evidence is or may be required. The court may fix the compensation for such services, if any, rendered by any person appointed under this section, in addition to any service as a witness, at such amount as seems reasonable to the court.

(b) The court shall not advise the jury that such expert witness has been appointed by the court, but this shall not preclude the court from calling and examining such expert witness.

This section shall remain in effect only until January 1, 1983, and, as of such date, is repealed.

SEC. 3. Section 730 is added to the Evidence Code, to read:

730. When it appears to the court, at any time before or during the trial of an action, that expert evidence is or may be required by the court or by any party to the action, the court on its own motion or on motion of any party may appoint one or more experts to investigate, to render a report as may be ordered by the court, and to testify as an expert at the trial of the action relative to the fact or matter as to which such expert evidence is or may be required. The court may fix the compensation for such services, if any, rendered by any person appointed under this section, in addition to any service as a witness, at such amount as seems reasonable to the court.

SEC. 4. Section 731 of the Evidence Code is amended to read:

731. (a) In all criminal actions and juvenile court proceedings, the compensation fixed under Section 730 shall be a charge against the county in which such action or proceeding is pending and shall be paid out of the treasury of such county on order of the court.

(b) The compensation fixed under Section 730 for experts in all civil actions in a county shall, in the first instance and in the discretion of the court, either be paid by the parties, as apportioned by the court, or be a charge against and paid out of the treasury of such county on order of the court. If the court orders that the compensation shall be a charge against and paid out of the treasury of the county, the county shall be entitled to reimbursement for such compensation as provided in Section 1031.5 of the Code of Civil Procedure.

This section shall remain in effect only until January 1, 1983, and, as of such date, is repealed.

SEC. 5. Section 731 is added to the Evidence Code, to read:

731. (a) In all criminal actions and juvenile court proceedings,

the compensation fixed under Section 730 shall be a charge against the county in which such action or proceeding is pending and shall be paid out of the treasury of such county on order of the court.

(b) In any county in which the board of supervisors so provides, the compensation fixed under Section 730 for medical experts in civil actions in such county shall be a charge against and paid out of the treasury of such county on order of the court.

(c) Except as otherwise provided in this section, in all civil actions, the compensation fixed under Section 730 shall, in the first instance, be apportioned and charged to the several parties in such proportion as the court may determine and may thereafter be taxed and allowed in like manner as other costs.

SEC. 6. Section 68092.5 of the Government Code is amended to read:

68092.5. (a) A person who is not a party to the action and who is required to testify before any court or tribunal, or in the taking of a deposition, in any civil action or proceeding, solely as to any expert opinion which he holds upon the basis of his special knowledge, skill, experience, training or education, and who is qualified as an expert witness shall receive reasonable compensation for his entire time required to travel to and from the place where the court or other tribunal, or in the taking of a deposition, the place of taking such deposition, is located and while he is required to remain at such place pursuant to subpoena. The court may fix the compensation for such appearance, in addition to such witness fees otherwise allowed by law, at such amount as seems reasonable to the court, upon motion by any party to the action or by the person required to testify and such fees shall be paid by the party requiring such witness to attend; except as provided in Sections 998 and 1031.5 of the Code of Civil Procedure and Section 730 of the Evidence Code, such fees shall not be allowable costs or disbursements.

(b) In the event the proceeding at which the expert witness has been notified his attendance is required is continued or canceled in advance of the time for which it is scheduled, such witness shall be notified of the continuance or cancellation by the party requiring his attendance by the quickest and most reliable means of giving notice under the circumstances. In the event such party fails to give notice as required by this subdivision, then the expert witness shall be entitled to receive the compensation specified in subdivision (a) of this section, notwithstanding his failure to give any testimony.

(c) An express contract entered into between a person and the party requesting or requiring him to testify, relating to compensation, shall be enforceable and shall prevail over the provisions of this section

This section shall remain in effect only until January 1, 1983, and, as of such date, is repealed.

SEC. 7. Section 68092.5 is added to the Government Code, to read:

68092.5. (a) A person who is not a party to the action and who

is required to testify before any court or tribunal, or in the taking of a deposition, in any civil action or proceeding, solely as to any expert opinion which he holds upon the basis of his special knowledge, skill, experience, training or education, and who is qualified as an expert witness shall receive reasonable compensation for his entire time required to travel to and from the place where the court or other tribunal, or in the taking of a deposition, the place of taking such deposition, is located and while he is required to remain at such place pursuant to subpoena. The court may fix the compensation for such appearance, in addition to such witness fees otherwise allowed by law, at such amount as seems reasonable to the court, upon motion by any party to the action or by the person required to testify and such fees shall be paid by the party requiring such witness to attend, but such fees shall not be allowable costs or disbursements.

(b) In the event the proceeding at which the expert witness has been notified his attendance is required is continued or canceled in advance of the time for which it is scheduled, such witness shall be notified of the continuance or cancellation by the party requiring his attendance by the quickest and most reliable means of giving notice under the circumstances. In the event such party fails to give notice as required by this subdivision, then the expert witness shall be entitled to receive the compensation specified in subdivision (a) of this section, notwithstanding his failure to give any testimony.

(c) An express contract entered into between a person and the party requesting or requiring him to testify, relating to compensation, shall be enforceable and shall prevail over the provisions of this section.

SEC. 8. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation pursuant to those sections 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. It is recognized, however, that a local agency or school district may pursue any other remedies available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 9. Sections 3, 5, and 7 shall become operative on Janaury 1, 1983.

CHAPTER 747

An act to amend Sections 7071.6 and 7110 of, and to add Article 11 (commencing with Section 7165) to Chapter 9 of Division 3 of, the Business and Professions Code, and to repeal Title 1 (commencing with Section 1725) of Part 4 of Division 3 of, the Civil Code, relating to swimming pool contracts.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 7071.6 of the Business and Professions Code is amended to read:

7071 6. (a) Except as provided in Section 7071.8 and subdivision (b), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license, that the applicant file or have on file a contractor's bond in the sum of two thousand five hundred dollars ($2,500), or in lieu thereof, a cash deposit in the sum of two thousand five hundred dollars ($2,500). No bond or cash deposit shall be required of a holder of an inactive license during the period his license is inactive.

(b) Notwithstanding subdivision (a), the board shall require, as a condition precedent to the issuance, reinstatement, reactivation, or renewal of a license for the license classification of swimming pool contractor, that the applicant file or have on file a contractor's bond in the sum of ten thousand dollars ($10,000), or in lieu thereof, a cash deposit in the sum of ten thousand dollars ($10,000). No bond or cash deposit shall be required of a holder of an inactive license during the period the license is inactive

SEC. 1.5. Section 7110 of the Business and Professions Code is amended to read:

7110 Willful or deliberate disregard and violation of the building laws of the state, or of any political subdivision thereof, or of the minimum painting standards adopted pursuant to Section 37040 of the Health and Safety Code, or of Section 8505 or 8556 of this code, or of Sections 1689 5 to 1689.7, inclusive, and Sections 1689.10 to 1689.13, inclusive, of the Civil Code, or of the safety laws or labor laws or compensation insurance laws or Unemployment Insurance Code of the state, or violation by any licensee of any provision of the Health and Safety Code or Water Code, relating to the digging, boring, or drilling of water wells constitutes a cause for disciplinary action.

SEC. 2. Article 11 (commencing with Section 7165) is added to Chapter 9 of Division 3 of the Business and Professions Code, to read:

Article 11. Swimming Pool Construction

7165. (a) The Legislature finds that a need exists for a more complete understanding between customers and contractors engaged in the swimming pool construction business regarding the content and conditions of transactions for swimming pool construction; that many misunderstandings have arisen because of the lack of a standard body of requirements relating to such transactions, and that certain sales and business practices, and construction practices, have worked financial hardship upon the people of this state; that the swimming pool construction business has

a significant impact on the economy and well-being of this state, its communities, and its individual citizens; that the problems which have arisen relative to the swimming pool construction business are peculiar to that business; and that the provisions of this article relating to the swimming pool construction business are necessary for the public welfare.

(b) The Legislature declares that the purpose of this article is to create an area of understanding and to establish standards which will safeguard the people against the imposition of financial hardship, and encourage competition, fair dealing, and prosperity in the swimming pool construction business.

7166. As used in this article, "swimming pool contractor" includes any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company who or which undertakes to, offers to undertake to, purports to have the capacity to undertake to, submits a bid to, or does itself, or by or through others, or on behalf of an owner-builder, construct any swimming pool.

7167. Every contract for the construction of a swimming pool shall be subject to the provisions of this article. Every contract for the construction of a swimming pool and any changes in the contract subject to the provisions of this article shall be in writing and shall be signed by all parties to the contract. The writing shall contain the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesman who solicited or negotiated the contract.

(b) The approximate date when the work will begin and the date certain on which all construction is to be completed.

(c) A plan and scale drawing showing the shape, size, dimensions, and construction and equipment specifications, of the pool, as approved by the person contracting for construction, and a description of all work to be done, the materials and equipment to be used, and the agreed consideration for the work.

(d) A schedule of payments showing the amount of each payment as a sum in dollars and cents. The schedule of payments shall be specifically referenced to the amount of work to be performed and to any materials and equipment to be supplied.

(e) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner before the commencement of work, such downpayment shall not exceed two hundred dollars ($200) or 2 percent of the contract price, excluding finance charges, whichever is the lesser.

(f) In no event shall the payment schedule provide for the contractor to receive payments, including any initial downpayment, in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by this section and final payment at the completion of the final plastering

phase of construction provided that any installation or construction of equipment, decking, or fencing required by the contract is also completed.

(g) The requirements of subdivisions (d), (e), and (f) pertaining to the payment schedule shall not apply when the contract provides for the contractor to furnish performance and payment bond, lien and completion bond, or a bond equivalent approved by the Registrar of Contractors covering 100 percent of the contract and such bonds are furnished by the contractor, or when the parties agree for full payment to be made upon satisfactory completion of the project.

(h) The contract shall state that upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the swimming pool a full and unconditional release from any claim of mechanic's lien by the contractor, or by a person entitled to enforce a mechanic's lien pursuant to Section 3114 of the Civil Code, for that portion of the work for which payment has been made.

(i) No additional work shall be performed without prior written authorization of the person contracting for the construction of the swimming pool. Any such authorization shall be on a contract change-order form showing the agreed terms and reasons for such changes, and shall be approved by both parties in writing. Any such change-order forms shall be incorporated in, and become a part of, the contract.

7168. At the time a contract for the construction of a swimming pool is signed by the parties, the swimming pool contractor shall deliver a legible copy of such contract to the person contracting for construction of the swimming pool.

7169. In any action between a person contracting for construction of a swimming pool and a swimming pool contractor, arising out of a contract for swimming pool construction, the court shall award reasonable attorney's fees to the prevailing party.

7170. The provisions of this article shall not apply to contracts for the construction of swimming pools to be built for the use and enjoyment of other than a single-family unit upon or contiguous to premises occupied only by a single-family unit, nor shall they apply to the construction of swimming pools built as part of an original building plan by the same contractor who builds a single-family dwelling unit on the premises.

7171. The provisions of this article are not exclusive and do not relieve the contractor or any contract subject to them from compliance with all other applicable provisions of law.

7172. Any contract for the construction of a swimming pool which does not comply with the applicable provisions of this article shall be void and unenforceable by the contractor as contrary to public policy.

7173. A violation of the provisions of this article by a licensee

under this chapter, his agent, or salesman, or by any person acting in the capacity of a contractor, is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 3. Title 1 (commencing with Section 1725) of Part 4 of Division 3 of the Civil Code is repealed.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 748

An act to amend Section 7260 of the Government Code, relating to community redevelopment.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 7260 of the Government Code is amended to read:

7260. As used in this chapter:

(a) "Public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state when acquiring real property, or any interest therein, in any city or county for public use.

(b) "Person" means any individual, partnership, corporation, or association.

(c) "Displaced person" means any person who moves from real property, or who moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, by a public entity or by any person having an agreement with or acting on behalf of a public entity, or as the result of a written order from a public entity to vacate the real property, for public use. This definition shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for or in connection with a public use where the public entity is otherwise empowered to acquire the property to carry out the public use. Except tenants or

occupants of housing made available on a permanent basis by a public agency, a "displaced" person shall not include: (1) any person who, at the time of the public entity's acquisition of the real property, was not a tenant or occupant in lawful possession of the real property, and whose right of possession at the time of moving arose after the date of the public entity's acquisition of the real property and with knowledge of such acquisition; or (2) unless federal law or regulations require such a tenant to be considered a displaced person, any nonresidential tenant or occupant who moves as a result of his breach of his tenancy agreement.

(d) "Business" means any lawful activity, except a farm operation, conducted primarily:

(1) For the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purpose of Section 7262 for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not such display is located on the premises on which any of the above activities are conducted.

(e) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) "Affected property" means any real property which actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

(g) "Public use" means a use for which real property may be acquired by eminent domain.

(h) "Mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

CHAPTER 749

An act to amend Sections 3503 and 4702 of, and to repeal and add Section 3501 of, the Labor Code, relating to workers' compensation.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 3501 of the Labor Code is repealed.

SEC. 2. Section 3501 is added to the Labor Code, to read:

3501. A child under the age of 18 years, or over that age but physically or mentally incapacitated from earning shall be conclusively presumed to be wholly dependent for support upon a deceased employee-parent with whom that child is living at the time of injury resulting in death of the parent or for whose maintenance the parent was legally liable at the time of injury resulting in death of the parent, there being no surviving totally dependent parent.

SEC. 3. Section 3503 of the Labor Code is amended to read:

3503. No person is a dependent of any deceased employee unless in good faith a member of the family or household of the employee, or unless the person bears to the employee the relation of husband or wife, child, posthumous child, adopted child or stepchild, grandchild, father or mother, father-in-law or mother-in-law, grandfather or grandmother, brother or sister, uncle or aunt, brother-in-law or sister-in-law, nephew or niece.

SEC. 4. Section 4702 of the Labor Code is amended to read:

4702. Except as provided in the next paragraph, the death benefit in cases of total dependency, when added to all accrued disability indemnity, shall be the sum of fifty thousand dollars ($50,000) except in the case of a surviving spouse and one or more dependent minor children or in the case of two or more surviving dependent minor children, in either of which cases, the death benefit shall be fifty-five thousand dollars ($55,000) and except as otherwise provided in Sections 4553 and 4554. In cases of partial dependency the death benefit shall be a sum equal to four times the amount annually devoted to the support of the dependents by the employee, not to exceed the sum of fifty thousand dollars ($50,000). The death benefit in all cases shall be paid in installments in the same manner and amounts as temporary disability indemnity, payments to be made at least twice each calendar month, unless the appeals board otherwise orders.

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

Every computation made pursuant to this section shall be made only with reference to death resulting from an original injury sustained after this section as amended in 1979 during the 1979–80 Regular Session of the Legislature becomes effective; provided, however, that all rights presently existing under this section shall be continued in force.

SEC. 5. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code for the reimbursement of any local agency or school district for any costs

that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act. It is recognized, however, that such agency or district may pursue any other remedies available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 750

An act to add Section 529.1 to the Code of Civil Procedure, relating to courts.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 529.1 is added to the Code of Civil Procedure, to read:

529.1. In all actions in which the court has granted an injunction sought by any plaintiff, other than the state, a county, a municipal corporation, or other public agency, to enjoin a construction project which has received all legally required licenses and permits, the defendant may apply to the court by noticed motion for an order requiring the plaintiff to furnish a written undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in the construction of the project. The motion shall be made on the grounds that there is no reasonable possibility that the plaintiff will obtain a judgment against the moving defendant and that the plaintiff will not suffer undue economic hardship by filing the undertaking.

If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order as security for costs and damages of the defendant. The liability of the plaintiff pursuant to this section for the costs and damages of the defendant shall not exceed five hundred thousand dollars ($500,000).

An action on the undertaking provided by this section shall be brought in the same manner as for an undertaking made pursuant to Section 529.

As used in this section, a construction project includes, but is not restricted to, the construction, surveying, design, specifications, alteration, repair, improvement, maintenance, removal, or demolition of any building, highway, road, parking facility, bridge, railroad, airport, pier or dock, excavation or other structure, development or other improvement to real or personal property. The Office of Planning and Research shall review the operation of this section and report to the Governor and the Legislature by January 1, 1985

CHAPTER 751

An act to add and repeal Division 5 (commencing with Section 12100) to the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Division 5 (commencing with Section 12100) is added to the Unemployment Insurance Code, to read:

DIVISION 5. LEISURE SHARING

CHAPTER 1. GENERAL PROVISIONS

12100. The Legislature finds and declares that the persistence of high levels of unemployment, even during periods of substantial economic growth, is a matter of serious concern to the people of California, and requires a continuing search for solutions.

The Legislature further finds that measures undertaken at all levels of government to stimulate employment and to abate unemployment are by and large appropriate and useful, but that the aggregate impact of such measures over the years has fallen short of achieving and maintaining full employment. The Legislature therefore finds it proper and prudent to augment existing efforts by encouraging the development of new measures intended to increase employment opportunities.

It is the intent of this legislation to promote experimentation with means of creating employment opportunities through voluntary redistribution of hours of work, permitting more time away from work for those who desire additional leisure while providing employment for those who have no work.

It is explicitly not the intent of this legislation to impose any constraints upon participating employers to modify any of their policies governing the operation of their business.

12100.5. Nothing in this division shall be construed to supersede or impair any contrary provisions contained in an existing collective bargaining agreement.

12101. The Employment Development Department shall administer the provisions of this division subject to the provisions of Section 12112. The department shall develop administrative procedures and guidelines necessary to carry out the intent of this division, including, but not limited to, means to monitor and measure program effectiveness.

12102 Definitions:

(a) "Leisure sharing" means a job-creation concept in which some

full-time workers voluntarily reduce worktime under such circumstances that additional employment opportunities result from the employer's desire to maintain a given level of production.

The term leisure sharing is to be distinguished from work sharing or shared work as such terms are used in Sections 978.5 and 1279.5. In the context of this code, leisure sharing refers to the creation of employment opportunities through voluntary reduced worktime conjoined with a maintenance of production, whereas work sharing or shared work refer to the preservation of existing employment opportunities to the extent possible through worktime reductions in the face of diminished production requirements.

(b) "Reduced worktime" means a period of worktime less than that established by law or usage in a given work setting to be the standard for full-time.

(c) "Reduced workday" means fewer than the standard number of hours for a full-time workday

(d) "Reduced workweek" means fewer than the standard number of days for a full-time workweek.

(e) "Reduced workyear" means additional days or weeks off work beyond those normally granted to a full-time worker.

(f) "Extended leave" or "sabbatical leave" means a very long continuous leave of absence from work of up to one year, with return rights, when granted, coming usually after a number of years of continuous service with the same employer.

(g) "Job sharing," "job pairing," or "twinning" means a form of job structuring in which two or more persons jointly fulfill the responsibilities of one full-time position with some degree of cooperation between them

CHAPTER 2. PROGRAM GRANTS

12110 In order to encourage voluntary participation by employers in the private sector, grants shall be made to offset increases in such employers' labor costs which are directly attributable to participation in the leisure sharing program authorized by this division.

12111. The director shall identify potentially reimbursable costs, which shall include, but need not be limited to·

(a) Costs of additional payroll taxes, and costs of fringe benefits that are part of the employer's regular compensation package which by law cannot be prorated to a participating employee's worktime reduction under this program.

(b) Additional costs of recruitment and training that cannot reasonably or appropriately be defrayed under another program

(c) Administrative costs of developing and maintaining participation in the program not covered by the technical assistance provided or in other ways.

(d) Special costs such as experience rating increases consequent on layoffs resulting from modifying or dropping participation either

by the employer or employees, or at the termination of the experimental period.

(e) Costs of maintaining full selected fringe benefits of participating employees where, in the judgment of the panel established pursuant to Section 12112, such costs would enhance the research objectives of the program by presenting an opportunity to study the effects of such incentives on participation in a controlled setting, and would not be unduly costly relative to the funds available to the program.

12112. A procedure for applying for grants shall be developed by a panel consisting of the directors of the Employment Development Department, the Department of Industrial Relations, and the Department of Economic and Business Development, who shall also make the final decision on the awarding of grants.

12113. Applications for grants may be considered for award if the application indicates that the employer is prepared to:

(a) Permit a sufficient number of employees to elect a sufficient amount of additional leave from work, provide evidence that such employees are in fact willing and ready to reduce worktime, and that the number of employees in the subject work force will be increased to maintain output. It shall also be clear that workers understand participation is strictly voluntary and reversible under the circumstances specified in subdivisions (b) and (c).

(b) Outline a reasonable number of options as to manner and duration of reducing worktime.

(c) Specify a reasonable time period after which participating workers may revise their options or revert to their prior status, and in which nonparticipating workers may elect to participate.

(d) Present a plan for proration of items of compensation of participating workers to each worker's new worktime pattern, which plan shall include the right of a worker to reimburse the employer the pro rata cost for maintenance of full benefits where the employee wishes to maintain such benefits.

12114. The following priorities shall be considered in making grant awards:

(a) The application shows high potential for creating a substantial number of permanent employment opportunities which would not otherwise exist.

(b) The application, when considered with other applications, offers an opportunity to broaden the experimentation with reduced worktime through the variety and flexibility offered to employees in the manner and duration of reduced worktime options.

(c) The application, when considered with other applications, offers an opportunity to expand an understanding of the characteristics of employees who are likely to participate.

(d) The extent of the opportunity to study the interaction of this program with other employment opportunity programs.

(e) The application, when considered with other grant applications, provides an opportunity to compare cost issues in

relatively similar settings.

(f) The application provides an appropriate opportunity to study the effect of incentives to participation such as those outlined in subdivision (e) of Section 12111.

12115. No grant applicant shall be authorized to receive reimbursement under this chapter for a period exceeding two years.

12116. The director shall make appropriate reimbursements to grantees for expenses designated by Section 12111 in a timely manner agreed upon by the grantee at the outset of the grantee's participation in the program.

CHAPTER 3. TECHNICAL ASSISTANCE

12120. The department shall disseminate information to employers explaining the nature and purpose of the leisure sharing program.

The department shall also provide technical assistance:

(a) To employers who wish to apply for participation in the program and to measure the extent of interest among employees of such employer.

(b) To participating employers to set up and operate such program in order to maximize the impact on employment, minimize costs, and maximize research findings.

(c) To participating employers to make the maximum appropriate use of existing federal, state, and local government aid programs related to objectives of this program, such as the Comprehensive Employment Training Act program and other recruitment programs, and to assist an employer in qualifying for any benefits to which he may be eligible under employment incentive tax or similar programs. Such assistance shall be designed to reduce to an absolute minimum administrative efforts and expenses required of the employer; provided, however, that the department shall specifically advise each applicant that utilization of any other voluntary aid or incentive program as described in this section shall be solely at the discretion of the applicant and shall in no way be construed as a condition or precondition of an employer's participation in the demonstration program under this division

12121. In enacting this division, the Legislature specifically intends that the director shall not take into consideration as a possible offset against reimbursable labor costs under Section 12111 such windfalls to a participating employer as:

(a) A tax incentive benefit or similar benefit gained by the employer through another public program specifically designed to encourage the employment of certain individuals, when such individuals have become employed as a result of the operation of the program under this division.

(b) A decline in total wages paid as a result of prorating the wages of high seniority employees while hiring new employees at lower wage rates as a result of the operation of the program under this

division.

(c) Any productivity gains which may be attributable to a positive effect of this program.

CHAPTER 4. PROGRAM EVALUATION

12130. The department shall competitively contract with organizations competent in the field of program evaluation for the evaluation of the program established by this division. Pursuant to procedures and guidelines adopted by the department, such contractors shall monitor the progress and performance of each program to determine the effectiveness of such programs pursuant to the criteria established by Section 12131.

12131. Each program for which a grant has been awarded shall be evaluated periodically to determine.

(a) The cost to government of creating jobs in the manner prescribed by this division. Such evaluation shall determine and distinguish between costs incurred in averting an increase in the participating employers' unit labor costs, the cost of providing technical assistance, and other costs of administering the program.

(b) The comparison of such costs with the costs of creating jobs through other government assisted programs, such as the Comprehensive Employment and Training Act (29 U.S.C.A. 801 et. seq.) and Work Incentive Programs authorized by Division 2 (commencing with Section 5000) of this code.

(c) The comparison of such costs with the costs of providing public assistance and similar services to households in which the employable wage earner is unemployed, including, but not limited to, a comparison of tax collections from employed individuals versus direct and indirect expenditures from tax revenues on behalf of such persons.

(d) The benefits to employers such as productivity improvements attributable to the program resulting from, among other things, improved morale, reduced personnel turnover, and a larger trained reserve work force

(e) The benefits to participating employees which shall include a survey of the employees' expectations and experience.

(f) Broad social and economic benefits, if any, that may reasonably be projected from a potential expansion of the concept to a larger segment of the labor market.

(g) To the extent possible, what kinds of employers and employees are most likely to participate, and why, including an evaluation of the effectiveness of incentives to participation as outlined in subdivision (e) of Section 12111.

CHAPTER 5. MISCELLANEOUS

12140. Nothing in this division shall be construed to impose upon any employer who is participating in a job creation experimental

program under this division any requirement beyond what is contained in other provisions of law with respect to what persons shall or may be hired by such employer to fill job vacancies created by the operation of the experimental program.

12141. The department shall report to the Legislature, on or before January 1 and July 1 of each year, its progress in implementing this division, including the number of persons employed as a result of the enactment of this division.

CHAPTER 6. FUNDING

12150. The Employment Development Department is authorized to accept any federal or other funds which are available for the purposes of this division.

12151. It is the intent of the Legislature that the Employment Development Department, with the assistance of the Department of Industrial Relations and the Department of Economic and Business Development, seek and apply for funds from the federal government and other potential sources to implement the program established under this division.

12152. If, as a condition of receiving funds for implementing the program established under this division from federal or other sources, it is required that windfalls to a participating employer such as those described in Section 12121 be taken into consideration in determining reimbursable labor costs, the provisions of Section 12121 shall be inoperative to the extent required by the conditions for receiving such implementation funds.

SEC. 2. This act shall become operative upon the date that any federal or other funds are received and shall remain operative for a period of three years after such date.

CHAPTER 752

An act to amend Sections 7006 and 7017 of the Civil Code, relating to parent and child.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 7006 of the Civil Code is amended to read:

7006. (a) A child, the child's natural mother, or a man presumed to be his father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004

(2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. The commencement of such an action shall suspend any pending proceeding in connection with the adoption of such child, including a proceeding pursuant to subdivision (b) of Section 7017, until a judgment in the action is final.

(d) Except as to cases coming within the provisions of Section 621 of the Evidence Code, a man not a presumed father may bring an action for the purpose of declaring that he is the natural father of a child having a presumed father under Section 7004, if the mother relinquishes for, consents to, or proposes to relinquish for or consent to, the adoption of the child. Such an action shall be brought within 30 days after the man is served as prescribed in subdivision (f) of Section 7017 with a notice that he is or could be the father of such child or the birth of the child, whichever is later. The commencement of such action shall suspend any pending proceeding in connection with the adoption of such child until a judgment in the action is final.

(e) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

(f) An action under this section may be brought before the birth of the child.

(g) The district attorney may also bring an action under this section in any case in which he believes that the interests of justice will be served thereby.

SEC. 2. Section 7017 of the Civil Code is amended to read:

7017. (a) (1) If a mother relinquishes for or consents to or proposes to relinquish for or consent to the adoption of 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, or unless the father has been served as prescribed in subdivision (f) with a written notice alleging that he is or could be the natural father of the child to be adopted or placed for adoption and has failed to bring an action for the purpose of declaring the existence of the father and child relationship pursuant to subdivision (c) of Section 7006 within 30 days of service of such notice or the birth of the child, whichever is later.

(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), unless he has been served with a written notice alleging that he is or could be the natural father of the child to be adopted, or placed or relinquished for adoption and has failed to bring an action pursuant to subdivision (c) of Section 7006 to declare the existence of the father and child relationship within 30 days of serving such notice or the birth of the child, whichever is later. 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

CHAPTER 753

An act to amend the heading of Division 7.5 (commencing with Section 14000) of, to amend the heading of Chapter 1 (commencing with Section 14000) of Division 7.5 of, to amend Section 14080 of, to repeal Article 2 (commencing with Section 14020) of Division 7.5 of, and to repeal Section 14043 of, the Water Code, relating to liquid waste.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. The heading of Division 7.5 (commencing with Section 14000) of the Water Code is amended to read:

DIVISION 7.5. DISPOSAL OF WASTE

SEC. 2. The heading of Chapter 1 (commencing with Section 14000) of Division 7.5 of the Water Code is amended to read:

CHAPTER 1. LIQUID and HAZARDOUS WASTE DISPOSAL SITES

SEC. 3. Article 2 (commencing with Section 14020) of Chapter 1 of Division 7.5 of the Water Code is repealed.

SEC. 4. Section 14043 of the Water Code is repealed

SEC. 5. Section 14080 of the Water Code is amended to read.

14080. Any person who violates any provision of Section 14041 or 14042 is guilty of a misdemeanor

---

CHAPTER 754

An act to add Section 1255.3 of the Unemployment Insurance Code, relating to unemployment.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 1255 3 is added to the Unemployment Insurance Code, to read

1255.3 (a) The amount of unemployment compensation benefits, extended duration benefits, and federal-state extended benefits payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension,

retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week.

(b) The provisions of this section shall be operative only during such time as Section 3304 of the Federal Unemployment Tax Act requires that state unemployment insurance laws contain such provisions as a condition of certification of state unemployment insurance laws by the Secretary of Labor.

CHAPTER 755

An act to add Section 637.1 to the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 637.1 is added to the Unemployment Insurance Code, to read:

637.1. An individual who is the sole stockholder of a private corporation organized for profit and who is included within the meaning of "employee" pursuant to subdivision (a) of Section 621 may file a statement disclaiming any rights to benefits under this division and both the individual and the corporation shall be exempt from contributions under this division with respect to any wages paid to the individual by such corporation in the calendar quarter in which such statement is filed, the remainder, if any of the calendar year in which such statement is filed and not less than the two succeeding complete calendar years, and in all subsequent calendar quarters while such statement is in effect. Such individual shall be ineligible to receive any benefits under this division based upon such wages.

CHAPTER 756

An act to add Sections 9607.5 and 17910.5 to, and to add Article 8 (commencing with Section 9780) to Chapter 19 of Division 3 of, the Business and Professions Code, relating to businesses, and making an appropriation therefor.

[Approved by Governor September 18, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 9607.5 is added to the Business and Professions Code, to read:

9607.5. "Crematory licensee" shall mean a corporation, partnership, or natural person licensed pursuant to Article 8 (commencing with Section 9780) and shall mean a cemetery licensee for purposes of disciplinary action under Article 6 (commencing with Section 9725).

SEC. 2. Article 8 (commencing with Section 9780) is added to Chapter 19 of Division 3 of the Business and Professions Code, to read:

Article 8. Crematories

9780. A crematory established, operated, or maintained, other than by a licensed cemetery authority, may be operated by a corporation, partnership, or natural person, provided that a valid crematory license shall have been issued by the board.

9781. Application for a crematory license shall be made in writing on the form prescribed by the board and filed at the principal office of the board. Such application shall be accompanied by the fee provided for in this article and shall show that the applicant owns or is actively operating a crematory in this state or that the applicant is in a position to commence operating such a crematory.

9782. The board may require such proof as it deems advisable concerning the compliance by such applicant with all the laws, rules, regulations, ordinances, and orders applicable to the applicant and shall not issue such crematory license until it has satisfied itself that the public interest will be served by such applicant.

9783. (a) The board shall adopt, and may from time to time amend, rules and regulations prescribing standards of knowledge and experience and financial responsibility for applicants for a crematory license. In reviewing an application for a crematory license, the board may consider acts of the applicant, including acts of incorporators, officers, directors, and stockholders of the applicant, which shall constitute grounds for the denial of a crematory license under Division 1.5 (commencing with Section 475).

(b) Upon receipt of an application for a crematory license, the board may cause an investigation to be made of the physical status, plans, specifications, and financing of the proposed crematory, the character of the applicant, including, if applicable, its officers, directors, shareholders, or members, and any other qualifications required of the applicant under this article, and for this purpose may subpoena witnesses, administer oaths, and take testimony.

At the time of the filing of the application required by this article,

the applicant shall pay to the Cemetery Fund the sum fixed by the board at not in excess of four hundred dollars ($400) to defray the expenses of investigation. In the event the sum shall be insufficient to defray all of the expenses, the applicant shall within five days after request therefor deposit an additional sum sufficient to defray such expenses, provided that the total sum shall not exceed the sum of nine hundred dollars ($900).

9784 No crematory licensee under this article shall conduct any cremations:

(a) Unless such licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition to be made of the remains, agreeing to pay the regular fees of such licensee for cremation, disposition, and other services rendered, and such other contractual provisions as may be required by the board.

(b) Of any remains more than 72 hours after death unless such remains have been preserved in the interim by refrigeration or embalming.

(c) Unless such licensee has a contractual relationship with a licensed cemetery authority for final disposition of cremated human remains by burial, entombment or inurnment of any and all remains which are not lawfully disposed of or which are not called for or accepted by the person or persons entitled to the custody and control of the disposition thereof within 90 days of the date of death.

9785. Each crematory licensee shall keep such records as may be required by the board to assure compliance with all laws relating to the disposition of cremated human remains and shall file annually with the board, a report in the form prescribed by the board, describing the operations of such licensee, including the number of cremations made, the disposition thereof, and such other information as the board may, from time to time, require.

9786. Every crematory licensee operating a crematory pursuant to a license issued in compliance with this article shall pay an annual regulatory charge for each crematory, to be fixed by the board at not more than four hundred dollars ($400), plus an additional charge of not more than fifty cents ($0.50) per cremation made during the preceding full calendar year, which charges shall be deposited in the Cemetery Fund.

9787 Each crematory for which a crematory license is required shall be operated under the supervision of a manager qualified as such in accordance with rules adopted by the board. Each such manager shall be required to successfully pass a written examination evidencing an understanding of the applicable provisions of this code and of the Health and Safety Code of this state

9788 It is a misdemeanor for any person, firm, or corporation to cremate human remains or to engage in the disposition thereof without a valid crematory license or a valid certificate of authority. Each cremation shall be a separate violation.

9789. A crematory licensee shall be subject to and shall be

disciplined by the board in accordance with Article 6 (commencing with Section 9725).

SEC. 3. Section 17910.5 is added to the Business and Professions Code, to read:

17910.5. (a) No person shall adopt any fictitious business name which includes "Corporation", "Corp.", "Incorporated", or "Inc." unless such person is a corporation organized pursuant to the laws of this state or some other jurisdiction.

(b) A county clerk shall not accept a fictitious business name statement which would be in violation of this section.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code.

CHAPTER 757

An act to add Section 5011.5 to the Public Resources Code, relating to the state park system.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 5011.5 is added to the Public Resources Code, to read:

5011.5. A veteran of any war in which the United States has been, or may be engaged, upon presentation to the department of proof of disability and of an honorable discharge from service, shall, upon application therefor and payment of three dollars and fifty cents ($3.50), be issued a pass entitling the bearer to the use of all facilities, including boat launching facilities, in units of the state park system

As used in this section, "war" means that period of time commencing when Congress declares war or when the armed forces of the United States are engaged in active military operations against any foreign power, whether or not war has been formally declared, and ending upon the termination of hostilities as proclaimed by the President of the United States.

As used in this section, "veteran" means any member of the armed forces of the United States who has a 70 percent or greater service-connected disability, as certified by the Veterans' Administration, and who was honorably discharged from service

CHAPTER 758

An act making an appropriation for the enforcement of federal railroad safety standards, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 The sum of seventy-six thousand one hundred thirty dollars ($76,130) is hereby appropriated from the General Fund to the Public Utilities Commission for use during fiscal year 1979–80 for the purpose of enforcing federal railroad safety standards when the commission is certified to do so by the Federal Railroad Administration. If this program is continued into the 1980–81 fiscal year, the commission shall, on or before July 1, 1981, report to the Legislature on the effectiveness of the 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:

Inasmuch as state safety interests can be actively pursued under a program of federal certification of state enforcement of railroad safety standards, such combined federal and state efforts will produce improved safety results in terms of reduced accidents, and reduced personal injuries and property losses. In order for California to be certified as enforcing the federal standards and thus be eligible for a 50 percent reimbursement of funds spent on inspection and enforcement in the fiscal year 1978–79, it is necessary that this act take effect immediately.

CHAPTER 759

An act relating to the provision of recreational facilities, making an appropriation therefor and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Notwithstanding Section 38270 of the Vehicle Code or any other provision of law, the County of Riverside may acquire a fee or lesser right or interest in real and personal property in the County of Riverside near the area commonly known as De Anza

Cycle Park and the cost shall be financed entirely from money in the Off-Highway Vehicle Fund.

SEC. 2. Upon acquisition of the property, the County of Riverside shall administer the property as a county park. The County of Riverside shall carry out a program 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

SEC. 3. There is hereby appropriated from moneys in the Off-Highway Vehicle Fund, the sum of six million eight hundred thousand dollars ($6,800,000) to the Department of Parks and Recreation for expenditure as a grant to the County of Riverside for the planning, acquisition, and development of property at and near De Anza Cycle Park, consisting of parcels identified by the County of Riverside Assessor as follows

Book	Page	Parcel
413	110	028–4
413	121	001–3
413	122	001–6
413	122	002–7
413	122	003–8
413	122	004–9
413	122	005–0
413	122	006–1
413	122	007–2
413	122	008–3
413	122	009–4
413	122	010–4
413	122	011–5
413	122	012–6
413	122	013–7
413	122	014–8
413	122	015–9
413	122	016–0
413	122	017–1
413	122	018–2
413	122	019–3
413	131	001–4
413	131	002–5
413	131	003–6
413	131	004–7
413	131	005–8
413	131	006–9
413	131	007–0
413	131	008–1
413	131	009–2
413	131	010–2
413	131	011–3
413	131	012–4

413	131	013–5
413	131	014–6
413	131	015–7
413	131	016–8
413	131	017–9
413	131	018–0
413	131	019–1
413	131	020–1
413	131	021–2
413	131	022–3
413	131	023–4
413	131	024–5
413	131	025–6
413	131	026–7
413	131	027–8
413	131	028–9
413	131	029–0
413	131	030–0
413	131	031–1
413	131	032–2
413	131	033–3
413	131	034–4
413	131	035–5
413	131	036–6
413	131	037–7
413	131	038–8
413	131	039–9
413	131	040–9
413	132	001–7
413	132	002–8
413	132	003–9
413	132	004–0
413	132	005–1
413	132	006–2
413	132	007–3
413	132	008–4
413	132	009–5
413	132	010–5
413	132	011–6
413	132	012–7
413	132	013–8
413	132	014–9
413	140	001–2
413	140	002–3
413	140	003–4
413	140	004–5
413	140	005–6
413	140	007–8
413	140	008–9

413	140	009–0
413	140	011–1
413	140	012–2
413	140	013–3
413	140	014–4
413	140	015–5
413	140	016–6
413	140	021–0
413	140	022–1
413	151	001–6
413	151	002–7
413	151	003–8
413	151	004–9
413	151	005–0
413	151	006–1
413	151	007–2
413	151	008–3
413	151	009–4
413	152	001–9
413	152	002–0
413	152	003–1
413	152	004–2
413	152	005–3
413	152	006–4
413	152	007–5
413	152	008–6
413	152	009–7
413	152	010–7
413	152	011–8
413	152	012–9
413	152	013–0
413	152	014–1
413	152	015–2
413	152	016–3
413	153	001–2
413	153	002–3
413	153	003–4
413	154	025–7
413	154	026–8
413	154	027–9
413	154	028–0
413	155	001–8
413	156	001–1
413	156	001–4
413	170	004–8
413	170	006–0
413	170	007–1
413	170	008–2
413	170	011–4

413	170	012–5
413	170	013–6
413	170	014–7
413	180	002–7
413	180	003–8
413	180	004–9
413	180	008–3
413	180	009–4
413	180	010–4
413	180	011–5
413	180	012–6
413	154	001–5
413	154	002–6
413	154	003–7
413	154	004–8
413	154	005–9
413	154	006–0
413	154	007–1
413	154	008–2
413	154	009–3
413	154	010–4
413	154	011–4
413	154	012–5
413	154	013–6
413	154	014–7
413	154	015–8
413	154	016–9
413	154	017–0
413	154	018–1
413	154	019–2
413	154	020–2
413	154	021–3
413	154	022–4
413	154	023–5
413	154	024–6
413	310	002–8
413	310	003–9
413	310	004–0
413	310	005–1
413	310	006–2
413	310	007–3
413	310	008–4
413	310	012–3
422	030	001–8
422	030	002–9
422	030	003–0
422	030	007–4
422	030	008–5
422	030	010–6

422	030	011–7
422	030	012–8
422	030	013–9
422	040	008–6
422	040	012–9
422	050	013–1
422	050	014–2
422	050	017–5
422	050	018–6
422	050	019–7
422	050	020–7
422	050	027
422	050	015
422	050	016
422	050	029
422	050	025
422	050	023–0
422	050	024–1
422	060	002–2
422	060	009–9
422	060	011–0
422	060	019–8
422	060	020–8
422	060	023–2
422	060	024–2
422	060	029
473	220	018–3
473	220	019–4
473	220	020–4
473	220	012–5
473	220	022–6
473	220	023–7
473	220	024–8
473	220	025–9
473	220	026–0
473	200	001–5
473	200	002–6
473	200	003–7
473	200	004–8
422	050	028
473	200	005–9
473	200	006–0
473	200	007–1
473	200	008–2
473	140	001–0
473	130	001–9
473	130	002–0
473	080	001–1
473	080	002–6

473	080	003–7
473	080	004–8
473	080	005–9
473	070	002–5
473	070	003–6
473	070	004–7
473	070	005–8
473	070	006–9
473	070	007–0
473	070	008–1
413	090	024–9
413	090	025–0
413	090	026–1
413	090	027–2
413	090	028–3
413	090	029–4
413	090	030–4
413	090	031–5
413	090	032–6
413	090	033–7
413	090	034–8
413	090	035–9
413	090	036–0
413	090	037–1
413	090	038–2
413	090	039–3
413	090	040
413	090	041–4
413	090	046–9
413	090	047–0
413	090	009–6
413	090	010–6
413	090	016–2
413	090	018–4

This appropriation shall be reduced by an amount equal to the value of any donations or the saving realized from below value purchases of property.

SEC 4. As a condition to receiving the grant funded by Section 3 of this act and in conformance with the provisions of the California Environmental Quality Act (Division 13 (Commencing with Section 21000) of the Public Resources Code), the County of Riverside shall provide an environmental impact report that inventories atmospheric, hydrologic, edaphic, vegetative, wildlife, and cultural resources which would be affected by the development of the property specified in Section 3. The County of Riverside shall provide mitigation measures for adverse environmental impacts.

SEC. 5 Upon approval of the environmental impact report required by Section 4 of this act, the County of Riverside shall

develop a management plan which shall include immediate and long-term monitoring programs to assess environmental conditions, including, but not limited to, erosion, vegetative degradation, wildlife productivity, air and water quality, and ecological balance. The management plan shall specify permissible levels of resource degradation and equitable rehabilitation programs and criteria for the measurement of such levels; provide methods for restoration of impacted areas; and provide maps identifying and differentiating between areas in use and areas under restoration.

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 rapidly escalating value of real estate and the rising cost of construction make it imperative that property intended for recreational development be purchased as rapidly as possible in order to maximize the purchasing power of available funds and provide the benefits of a vehicle recreation facility at the lowest cost. Therefore, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 760

An act to add and repeal Section 11019 to the Government Code, relating to state government.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 11019 is added to the Government Code, to read:

11019. (a) Any department specified in subdivision (b) may, upon determining that an advance payment is essential for the effective implementation of a program within the provisions of this section, and to the extent funds are available, and not more frequently than once each fiscal year, advance to a community-based private nonprofit agency with which it has contracted, pursuant to federal law and related state law, for the delivery of services, not to exceed 25 percent of the annual allocation to be made pursuant to the contract and such laws, during the fiscal year to the private nonprofit agency. Advances in excess of 25 percent may be made on contracts financed by a federal program when such advances are not prohibited by federal guidelines. Advance payments may be provided for services to be performed under any contract with a total annual contract amount of two hundred thousand dollars ($200,000) or less, or which the State Department of Finance determines has

been entered into with any community-based private nonprofit agency with modest reserves and potential cash flow problems. No advance payment shall be granted if the total annual contract exceeds two hundred thousand dollars ($200,000), without the prior approval of the State Department of Finance.

The specific departments mentioned in subdivision (b) shall develop a plan to establish control procedures for advance payments. Each such plan shall include a procedure whereby the department determines whether or not an advance payment is essential for the effective implementation of a particular program being funded. Each such plan is required to be approved by the Department of Finance

(b) Subdivision (a) shall apply to the Department of Aging, the State Department of Alcohol and Drug Abuse, the Department of Corrections, the Employment Development Department, the State Department of Health Services, the State Department of Mental Health, the Department of Rehabilitation, the State Department of Social Services, the Department of the Youth Authority, and the Department of Education.

SEC. 2. The Director of the Department of General Services, in conjunction with the State Controller and the Director of the State Department of Finance, shall survey the methods used by departments to contract with or reimburse or make advance payments to community-based private, nonprofit agencies and shall report to and submit his or her findings to the Legislature by January 1, 1981.

SEC. 3. Section 1 of this act shall remain in effect only until January 1, 1983, and shall have no force or effect on or after such date, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

CHAPTER 761

An act to amend Sections 1514 and 1531 of the Code of Civil Procedure, and to add Section 12405 to the Government Code, relating to unclaimed property.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 1514 of the Code of Civil Procedure is amended to read:

1514. The contents of any safe deposit box or any other safekeeping repository, held in this state by a business association, escheat to this state if unclaimed by the owner for more than seven years from the date on which the lease or rental period on the box

or other repository expired, or from the date of termination of any agreement because of which the box or other repository was furnished to the owner without cost, whichever last occurs.

SEC. 2. Section 1531 of the Code of Civil Procedure is amended to read:

1531. (a) Within 150 days after the receipt of property as required by Section 1532, the State Controller shall cause a notice to be published, and within 90 days thereafter republished, in an English language newspaper of general circulation in each county in this state in which is located:

(1) The last known address, as listed in the reports, of any person named in the reports as the apparent owner of property escheated to this state under this chapter; or

(2) If no address of any apparent owner named in the reports is listed, or if the address listed in the reports for any apparent owner named therein is outside this state, the principal place of business within this state of the holder of the escheated property.

(b) Each published notice shall be entitled "notice of names of persons appearing to be owners of unclaimed property," and shall contain the names in alphabetical order and last known addresses, if any, of:

(1) Those apparent owners listed in the reports as having a last known address within the county;

(2) Those apparent owners listed as having a last known address outside this state or as having no last known address in a report filed by a holder with his principal place of business within the county; and

(3) The insured or annuitant in the case of funds described in Section 1515 if:

(i) The report does not list the name of the apparent owner of the funds and his last known address; and

(ii) The last known address of the insured or annuitant is within the county.

(c) Each published notice shall also contain a statement that information concerning the amount or description of the property may be obtained by any persons possessing an interest in the property by addressing any inquiry to the State Controller.

(d) The State Conroller is not required to publish in such notice any item of less than fifty dollars ($50) unless he deems such publication to be in the public interest.

(e) Within 120 days from the final date for filing the report required by Section 1530, the State Controller shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of twenty-five dollars ($25) or more escheated under this chapter.

(f) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Controller, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and

any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the State Controller and all further claims must be directed to the State Controller.

(g) This section is not applicable to sums payable on travelers checks, money orders, and similar written instruments that escheat under subdivision (c), (d), or (e) of Section 1513.

SEC. 3. Section 12405 is added to the Government Code, to read:

12405. For the purposes of Article 2 (commencing with Section 11180) of Chapter 2, Part 1, Division 3, Title 2 of the Government Code, the State Controller shall be deemed to be a head of a department and the Office of State Controller shall be deemed to be a department.

CHAPTER 762

An act relating to disposition of property by the Director of General Services, and making an appropriation therefor.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979]

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 or for any lesser consideration authorized by law, 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 200 acres of land in two parcels, being a portion of the Atascadero State Hospital. One parcel of about 170 acres is located along the Salinas River, north of the hospital complex. The other parcel of about 30 acres is located near the entrance to the hospital, just off of State Highway 101, all south of the City of Atascadero in San Luis Obispo County.

Parcel 2. Approximately 10 acres of land, being a portion of the Patton State Hospital, located off of Orange Street in the City of San Bernardino, County of San Bernardino.

Parcel 3. Approximately 51 acres of land with numerous buildings, being the California Schools for the Deaf and Blind, located on Warring Street in the City of Berkeley, County of Alameda.

Parcel 4. Approximately 0.42 acre of land, being a portion of the

San Clemente State Beach, located on Avenida Calafia in the City of San Clemente, County of Orange, separated from the existing state beach

Parcel 5. Approximately 0.21 acre of steep land, being a portion of the Seacliff State Beach, located off Seacliff Drive in Aptos, Santa Cruz County, separated from the state beach.

Parcel 6. Approximately 2 acres of land, being a portion of the Tule Elk Reserve, located on Tupman Road near Tupman Townsite in Kern County.

Parcel 7 Approximately 0.4 acre of land, being a portion of the Will Rogers State Historic Park, located off of Sunset Boulevard near the community of Pacific Palisades, Los Angeles County.

Parcel 8. Approximately 250 acres of land, being a portion of the Preston School of Industry, located on the westerly boundary of the City of Ione, Amador County, northerly of Sutter Creek and generally easterly of Mule Creek.

Parcel 9 Approximately 1.46 acres of land and a 1,500 square foot building, being the California State Lands Commission's Santa Barbara field office, located at State Highway 101 and La Cumbre Road, Santa Barbara County.

Parcel 10. Approximately 1 acre of land and improvements thereon, being the site of the Department of Forestry's Guadalupe Lookout, Mariposa County.

Parcel 11. Approximately 1.6 acres of land and improvements thereon, being the Mission Street Armory, located at the intersection of 14th and Mission Streets in the City and County of San Francisco.

Parcel 12. Approximately 13.36 acres of land, consisting of an 80-foot strip located along the westerly and southerly boundary lines of Section 15, T5N, R4W, SBB&M; and being a portion of the Mojave Wildlife Area, San Bernardino County.

SEC. 2. The Director of General Services, with the approval of the Military Department, is hereby authorized to exchange with the adjoining property owner approximately 0.166 acre of vacant state land at the Nevada City Armory for land on which certain state improvements were inadvertently installed, upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state.

SEC. 2.5. The Director of General Services is hereby authorized to exchange, for land of equal or greater value, owned by the County of San Luis Obispo, approximately 34 acres of land, being a portion of Camp San Luis Obispo. The 34 acres are located on the southerly side of State Highway 101, approximately 1 mile south of the Main Gate to the camp

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, 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 SE ¼ of the NE ¼ of Section 10, T2N, R3E, HBM.

Parcel 2. Approximately 40 acres of land in Humboldt County, located 5.5 miles east of Dyerville, being the SW ¼ of the NW ¼ of Section 23, T1S, R3E, HBM.

Parcel 3. Approximately 17 acres of land, located easterly of Highway 1, being a portion of Point Lobos State Reserve in Monterey County.

SEC. 3.1. Section 1006 of the Welfare and Institutions Code shall in no way limit the authority of the Director of General Services to sell any portion of the Preston School of Industry previously authorized to be sold or authorized to be sold by Section 1 hereof.

SEC. 3.5. The Director of General Services is hereby authorized to quitclaim any interest the state may have as a result of an erroneous description in a deed conveying real property to the State of California, recorded in book 8812, page 224 with the County Recorder, in that parcel of land in the County of Contra Costa, State of California, described as follows:

Portion of the Southwest ¼ of the Northwest ¼ of Section 30, Township 1 North, Range 1 East, Mount Diablo Base and Meridian, being a portion of Lot 2 of said Section 30, described as follows:

Beginning on the west line of said Section 30 at the Northwest corner of said Lot 2; thence from said point of beginning, east along the line between Lots 1 and 2 in said Section 30, 700 feet; thence south parallel with the west line of said Section 30, 800 feet; thence west to a point on the west line of said Section 30, distant thereon south, 800 feet from the point of beginning; thence north along the west line of said Section 30, 800 feet to the point of beginning.

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 4, 5, 6, and 7 as described in Section 1, and Parcels 1 and 2 described in Section 3, shall be paid into the Collier Park Preservation Fund, that any money received from the disposition of Parcel 3 as described in Section 1 shall be paid into the Capital Outlay Fund for Public Higher Education and that any money received from the disposition of Parcel 12, as described in Section 1, shall be paid into the Wildlife Restoration Fund.

SEC. 7. As to any property sold pursuant to this act containing 10 acres or less and Parcel 12 as described in Section 1, 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 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 763

An act to add Section 17530.1 to the Business and Professions Code, relating to trusts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 17530.1 is added to the Business and Professions Code, to read:

17530.1. (a) It shall be unlawful for a person to recommend to a prospective trustor any person to serve as trustee with knowledge or having reason to believe that the proposed trustee is insolvent or is about to become insolvent.

For purposes of this section, "insolvent" means a person who has ceased to pay that person's debts as they become due or whose liabilities exceed that person's assets.

(b) The provisions of this section shall not apply to any trustee named in any deed of trust or mortgage which secures a note or evidence of indebtedness on real property when such trustee acts solely in that capacity.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253.2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated

by this act.

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

Persons in the business of setting up trusts are continuing to advocate the use of out-of-state trustees which have become insolvent. In order to prevent further losses it is necessary that this act take effect immediately.

CHAPTER 764

An act to amend Section 52612 of the Education Code, relating to adult education.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 52612 of the Education Code is amended to read:

52612. Except as specified in this section, an adult enrolled in a class for adults may be required by the governing board of the district maintaining the class to pay a fee for such class. No charge of any kind shall be made for a class in English and citizenship for foreigners or a class in an elementary subject. No fee charge shall be made for a class designated by the governing board as a class for which high school credit is granted when such class is taken by a person who does not hold a high school diploma. The total of the fees required and revenues derived from average daily attendance shall not exceed the estimated cost of all such classes maintained, including the reserves authorized by Section 52501.5.

All textbooks and classroom materials furnished without charge under this section may also be offered for sale at the school bookstore

SEC. 2. The Legislature in enacting this act hereby declares its intent that Section 52612 of the Education Code not require any student in a class in English and citizenship for foreigners or a class in an elementary subject to purchase a textbook, and that any such purchase be at the option of the individual student.

CHAPTER 765

An act to amend Section 6370 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 6370 of the Revenue and Taxation Code is amended to read:

6370. (a) This section applies to:

(1) Nonprofit parent-teacher associations chartered by the California Congress of P.T.A., Incorporated, and equivalent organizations performing the same type of service for public or private schools and authorized to operate within the school by the governing authority of the school.

(2) Nonprofit associations commonly called The Friends of the Library, and equivalent organizations performing auxiliary services to any library district, municipal library, or county library in the state, which are authorized to operate within the library by the governing authority of the library.

(b) An organization described in subdivision (a) is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, tangible personal property which it sells; provided, the profits are used exclusively in furtherance of the purposes of the organization.

(c) This section shall not be applicable to the state or any of its political subdivisions.

SEC. 2. The sum of one thousand three hundred dollars ($1,300) is hereby appropriated to the Controller from the State General Fund to make 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 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 766

An act to amend Section 27491.4 of the Government Code, relating to autopsies.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 27491.4 of the Government Code is amended to read:

27491.4. For purposes of inquiry the coroner shall, within 24 hours or as soon as feasible thereafter, where the suspected cause of death is sudden infant death syndrome unless the infant's physician of record certifies sudden infant death syndrome as the cause of death and a parent objects to an autopsy, and, in all other cases, the coroner may, in his or her discretion, take possession of the body, which shall include the authority to exhume such body, order it removed to a convenient place, and make or cause to be made a post mortem examination or autopsy thereon, and make or cause to be made an analysis of the stomach, stomach contents, blood, organs, fluids, or tissues of the body. The detailed medical findings resulting from an inspection of the body or autopsy by an examining physician shall be either reduced to writing or permanently preserved on recording discs or other similar recording media, shall include all positive and negative findings pertinent to establishing the cause of death in accordance with medicolegal practice and this, along with the written opinions and conclusions of the examining physician, shall be included in the coroner's record of the death. The coroner shall have the right to retain only such tissues of the body removed at the time of the autopsy as may, in his or her opinion, be necessary or advisable to the inquiry into the case, or for the verification of his findings. No person may be present during the performance of a coroner's autopsy without the express consent of the coroner.

In any case in which the coroner knows, or has reason to believe, that the deceased has made valid provision for the disposition of his or her body or a part or parts thereof for medical or scientific purposes in accordance with Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code, the coroner shall neither perform nor authorize any other person to perform an autopsy on the body unless the coroner has contacted or attempted to contact the physician last in attendance to the deceased. If such physician cannot be contacted, the coroner shall then notify or attempt to notify one of the following of the need for an autopsy to determine the cause of death: (a) the surviving spouse; (b) a surviving child or parent; (c) a surviving brother or sister; (d) any other kin or person who has acquired the right to control the disposition of the remains Following a period of 24 hours after

attempting to contact the physician last in attendance and notifying or attempting to notify one of the responsible parties listed above, the coroner may perform or authorize the performance of an autopsy, as otherwise authorized or required by law.

Nothing in this section shall be deemed to prohibit the discretion of the coroner to conduct autopsies upon any victim of sudden, unexpected, or unexplained death or any death known or suspected of resulting from an accident, suicide, or apparent criminal means, or other death, as described in Section 27491.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the Legislature finds and declares that there are no new duties, obligations, or responsibilities imposed on local government by this act that require reimbursement. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 767

An act to amend Sections 1502 and 2204 of, and to add Section 2205 to, the Corporations Code, and to amend Section 25936 of the Revenue and Taxation Code, relating to corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 1502 of the Corporations Code is amended to read:

1502. (a) Every corporation shall, within 90 days after the filing of its original articles and annually thereafter during the applicable filing period in each year, file, on a form prescribed by the Secretary of State, a statement containing (1) the names and complete business or residence addresses of its incumbent directors; (2) the number of vacancies on the board, if any; (3) the names and complete business or residence addresses of its chief executive officer, secretary and chief financial officer; (4) the street address of its principal executive office; (5) if the address of its principal executive office is not in this state, the street address of its principal business office in this state, if any; and (6) a statement of the general type of business which constitutes the principal business activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor, retail department store)

(b) The statement required by subdivision (a) shall also designate, as the agent of such corporation for the purpose of service

of process, a natural person residing in this state or a corporation which has complied with Section 1505 and whose capacity to act as such agent has not terminated. If a natural person is designated, the statement shall set forth such person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) For the purposes of this section, the applicable filing period for a corporation shall be the calendar month during which its original articles were filed and the immediately preceding five calendar months. The Secretary of State shall mail a form for compliance with this section to each corporation approximately three months prior to the close of the applicable filing period. The form shall state the due date thereof and shall be mailed to the last address of the corporation according to the records of the Secretary of State. The failure of the corporation to receive the form is not an excuse for failure to comply with this section.

(d) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation must file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the articles as to the agent for service of process and the address of the agent.

(e) The Secretary of State may destroy or otherwise dispose of any statement filed pursuant to this section after it has been superseded by the filing of a new statement.

(f) This section shall not be construed to place any person dealing with the corporation on notice of, or under any duty to inquire about, the existence or content of a statement filed pursuant to this section.

SEC. 2. Section 2204 of the Corporations Code is amended to read:

2204. (a) Upon the failure of a corporation to file the statement required by Section 1502, the Secretary of State shall mail a notice of such delinquency to the corporation. The notice shall also contain information concerning the application of this section, advise the corporation of the penalty imposed by Section 25936 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State, and shall advise the corporation of its right to request relief from the Secretary of State because of reasonable cause or unusual circumstances which justify such failure to file, or, if the Secretary of State does not grant relief, to pay such penalty under protest and to file a claim with the Board of Control requesting relief. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 1502 has not been filed by the corporation, the Secretary of State shall certify the name of such corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation the penalty provided in Section 25936 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation which on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301.5 or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 1502. The Secretary of State need not mail a form pursuant to Section 1502 to a corporation the corporate powers, rights and privileges of which have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing.

(e) If, after certification pursuant to subdivision (a) the Secretary of State finds (1) the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, or (2) the failure to provide notice of delinquency was due to an error of the Secretary of State, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the corporation pursuant to Section 25936 of the Revenue and Taxation Code

(f) If the Secretary of State determines that the failure of a corporation to file the statement required by Section 1502 is excusable because of reasonable cause or unusual circumstances which justify such failure, the Secretary of State may waive the penalty imposed by this section and by Section 25936 of the Revenue and Taxation Code, in which case the Secretary of State shall not certify the name of the corporation to the Franchise Tax Board, or if already certified, the Secretary of State shall promptly decertify the name of the corporation.

SEC 2 5. Section 2205 is added to the Corporations Code, to read:

2205. (a) A corporation which (1) fails to file a statement pursuant to Section 1502 for an applicable filing period, (2) has not filed a statement pursuant to Section 1502 during the preceding 24 months, and (3) was certified for penalty pursuant to Section 2204 for the same filing period of the prior year, shall be subject to suspension pursuant to this section rather than to penalty pursuant to Section 2204

(b) When subdivision (a) is applicable, the Secretary of State shall mail a notice to the corporation informing the corporation that its corporate powers, rights, and privileges will be suspended after 60 days if it fails to file a statement pursuant to Section 1502

(c) After the expiration of the 60-day period without any statement filed pursuant to Section 1502, the Secretary of State shall

notify the Franchise Tax Board of the suspension, and mail a notice of the suspension to the corporation and thereupon, except for the purpose of amending the articles of incorporation to set forth a new name, the corporate powers, rights, and privileges of the corporation are suspended.

(d) A statement pursuant to Section 1502 may be filed notwithstanding suspension of the corporate powers, rights, and privileges pursuant to this section or Section 23301 or 23301.5 of the Revenue and Taxation Code. Upon the filing of a statement pursuant to Section 1502 by a corporation which has suffered suspension pursuant to this section, the Secretary of State shall certify that fact to the Franchise Tax Board and the corporation may thereupon, in accordance with Section 23305a of the Revenue and Taxation Code, be relieved from suspension unless the corporation is held in suspension by the Franchise Tax Board by reason of Section 23301 or 23301.5 of the Revenue and Taxation Code.

SEC. 3. Section 25936 of the Revenue and Taxation Code is amended to read:

25936. Upon certification by the Secretary of State pursuant to subdivision (a) of Section 2204 of the Corporations Code, the Franchise Tax Board shall assess a penalty of two hundred fifty dollars ($250). Such penalty shall be a final assessment due and payable at the time of assessment but no interest shall accrue thereon. The assessment shall be collected as other taxes, interest and penalties are collected by the Franchise Tax Board unless the Secretary of State decertifies the name of the corporation as provided in subdivision (e) or (f) of Section 2204 of the Corporations Code.

This section shall remain in effect until January 1, 1980, and as of that date is repealed.

SEC. 3.5. Section 25936 of the Revenue and Taxation Code, as amended by Chapter 1305 of the Statutes of 1978, is amended to read:

25936. Upon certification by the Secretary of State pursuant to subdivision (a) of Section 2204 of the Corporations Code, the Franchise Tax Board shall assess a penalty of two hundred fifty dollars ($250). Upon certification by the Secretary of State pursuant to subdivision (a) of Section 6810 or subdivision (a) of Section 8810 of the Corporations Code, the Franchise Tax Board shall assess a penalty of fifty dollars ($50). Any such penalty shall be a final assessment due and payable at the time of assessment but no interest shall accrue thereon. The assessment shall be collected as other taxes, interest and penalties are collected by the Franchise Tax Board unless the Secretary of State decertifies the name of the corporation as provided in subdivision (e) or (f) of Section 2204, subdivision (e) of Section 6810, or subdivision (e) of Section 8810 of the Corporations Code.

SEC 4. Section 2.5 of this act shall become operative on January 1, 1981.

SEC 4 5 Section 3 5 of this act shall become operative on January

1, 1980.

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 penalties contained in the provisions which would be revised by this bill are a continuing problem for businesses in California and in order to prevent further losses to affected corporations it is necessary that this act take effect immediately.

CHAPTER 768

An act to amend Section 26002.5 of the Government Code, and to amend Sections 99151 and 99267 of the Public Utilities Code, relating to public transportation.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 26002 5 of the Government Code is amended to read:

26002.5. The legislative body of any city and county located in the area served by the Southern Pacific Transportation Company from the City of San Jose to the City and County of San Francisco may make a bulk purchase of tickets for that line from the company, or from the Greyhound Bus Lines for transportation services within the area, or from both, for resale at less than the cost to the residents of the city and county.

The legislative body shall determine the resale price of tickets purchased by it.

SEC. 2. Section 99151 of the Public Utilities Code is amended to read:

99151. Any transit district whose area is served by the Southern Pacific Transportation Company line from the City of San Jose to the City and County of San Francisco may make a bulk purchase of passenger tickets for that line from the company, or from the Greyhound Bus Lines for transportation services within the area, or from both, for resale at less than the cost to the transit district to residents of the transit district.

The governing body of the transit district shall determine the resale price of tickets purchased by it.

SEC. 3. Section 99267 of the Public Utilities Code is amended to read:

99267. (a) At least 15 percent of funds received under this article shall be used by an operator for capital expenditures.

(b) Such capital expenditures shall consist of acquisition of land

and other real property, current acquisition or replacement of transportation vehicles or conveyances (including those usable by handicapped persons), and acquisition, construction, enlargement, or repair of property and facilities incidental to or necessary or convenient in connection with the foregoing, depreciation, and payment of principal and interest on its bonded indebtedness, equipment trust certificates, or other indebtedness, including any amounts in the accomplishment of a defeasance under any outstanding revenue bond indenture.

(c) The requirement specified in subdivision (a) shall not apply (1) to an operator in each fiscal year that it receives financial assistance from local sources, exclusive of fares, in an amount equal to or greater than the amount it would have been required to expend pursuant to subdivision (a) or (2) to money allocated to a transit district for a claim filed pursuant to Section 99260.5.

CHAPTER 769

An act to amend Section 911.6 of the Government Code, relating to claims against public entities.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 911.6 of the Government Code is amended to read:

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of such period.

(b) The board shall grant the application where:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was not prejudiced by the failure to present the claim within the time specified in Section 911.2; or

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim; or

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time; or

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for

the presentation of the claim.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in such agreement.

SEC. 2. Section 911.6 of the Government Code is amended to read:

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of such period.

(b) The board shall grant the application where:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was not significantly prejudiced by the failure to present the claim within the time specified in Section 911.2; or

(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim; or

(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 911.2 for the presentation of the claim and by reason of such disability failed to present a claim during such time; or

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 911.2 for the presentation of the claim.

(c) If the board fails or refuses to act on an application within the time prescribed by this section, the application shall be deemed to have been denied on the 45th day or, if the period within which the board is required to act is extended by agreement pursuant to this section, the last day of the period specified in such agreement.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 994 are both chaptered and become effective January 1, 1980, both bills amend Section 911.6 of the Government Code, and this bill is chaptered after Assembly Bill 994, that the amendments to Section 911.6 proposed by both bills be given effect and incorporated in Section 911.6 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 994 are both chaptered and become effective January 1, 1980, both amend Section 911.6, and this bill is chaptered after Assembly Bill 994, in which case Section 1 of this act shall not become operative.

CHAPTER 770

An act to add Section 1256.3 to the Unemployment Insurance Code, relating to unemployment insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 1256.3 is added to the Unemployment Insurance Code, to read:

1256.3. For the purposes of Sections 1256, 1256.1, and 1256.2, "most recent work" is that work in which a claimant last performed compensated services:

(a) Prior to and nearest the date of filing a valid new, reopened, or additional claim for unemployment compensation benefits, a valid primary, reopened, or additional claim for extended duration benefits, or a valid application, or reopened or additional claim for federal-state extended benefits.

(b) During the calendar week for which a continued claim is filed.

SEC. 2. This act shall apply to weeks of unemployment claimed that commence on or after the effective date of this act.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that 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 Tomlin v. California Unemployment Insurance Appeals Board (1978), 82 Cal. App. 3d 642, the Court of Appeal, Second Appellate District, held that under Section 1256 of the Unemployment Insurance Code, "most recent work" is not the last part-time work an unemployment insurance benefits claimant performed but is full-time work from which the claimant was separated prior to separation from the part-time work. The court held that "most recent work" is the "primary or principal or full-time employment" or "significant or regular employment", and not necessarily the work last performed by a claimant. The Tomlin decision is contrary to the long-standing administrative interpretation of the Employment Development Department that "most recent work" is the work a claimant last performed prior to and nearest to a claim for benefits, including part-time work.

Under the Tomlin decision, it is often difficult to determine which

of two or more employers is the employer for whom "most recent work" has been performed. "Most recent work" can be work performed in the past ending at an uncertain, indefinite, and lengthy time preceding unemployment and have little or no causal relationship to a claimant's present unemployment. The result is the denial of benefits to claimants who are involuntarily unemployed without fault, contrary to the basic legislative intent of the unemployment insurance program. To restore the law to the interpretation prior to the Tomlin decision and provide for payment of benefits to those involuntarily unemployed without fault, it is necessary for this act to take effect immediately.

CHAPTER 771

An act to amend Sections 32903, 32904, 32905, and 35601 of, and to add Section 32903.5 to, the Food and Agricultural Code, relating to milk.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 32903 of the Food and Agricultural Code is amended to read:

32903. It is unlawful for any person to sell any milk, or any product of milk, from cows or goats that have not negatively passed a tuberculin test applied regularly in accordance with regulations of the department by one of the following:

(a) A veterinarian in the employ of the department.

(b) A veterinarian of the United States Department of Agriculture.

(c) A veterinarian approved by the department and accredited by the United States Department of Agriculture.

In the case of cows or goats which are producing milk that is to be used as raw market milk, "tuberculin test applied regularly" means at least once annually.

SEC. 1.5. Section 32903.5 is added to the Food and Agricultural Code, to read:

32903 5. It is unlawful for any person to sell any milk, or any product of milk, from cows or goats that are reactors to a brucellosis test applied in accordance with the law and regulations of the department.

SEC. 2 Section 32904 of the Food and Agricultural Code is amended to read·

32904. If reacting animals are found they shall be removed from the herd immediately by the owner and kept separate and apart from other cattle or goats and disposed of in accordance with the

provisions of Part 2 (commencing with Section 9801) of Division 5.

SEC. 3. Section 32905 of the Food and Agricultural Code is amended to read:

32905. Milk or any milk product may be sold in this state in the following cases:

(a) If such milk or milk product was produced in a modified accredited or modified certified area or their equivalent within the United States.

(b) If, in the case of any milk product which was produced in a foreign country, satisfactory evidence is presented which indicates its origin from nonreacting tuberculin or brucellosis tested animals.

SEC. 4. Section 35601 of the Food and Agricultural Code is amended to read:

35601. Milk shall be produced from nonreacting tuberculin and brucellosis tested cows or goats and shall conform to the regulations adopted by the director.

SEC. 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 772

An act to add Article 13.6 (commencing with Section 2420) to Chapter 5 of Division 2 of the Business and Professions Code, relating to physicians and surgeons, and making an appropriation therefor.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Article 13.6 (commencing with Section 2420) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 13 6. Diversion Evaluation Committees

2420 It is the intent of the Legislature that the Board of Medical Quality Assurance seek ways and means to identify and rehabilitate physicians with impairment due to abuse of dangerous drugs or alcohol, or due to mental illness or physical illness affecting competency so that physicians so afflicted may be treated and returned to the practice of medicine in a manner which will not

endanger the public health and safety.

It is the purpose of this article to establish a medically oriented treatment program for an early and speedy response to impairment in physicians which will increase the likelihood of successful rehabilitation for the licensee. It is the intent of the Legislature that this treatment program be an alternative to lengthy and costly investigations and administrative proceedings against such impaired physicians, yet protect the patient.

2420.1. As used in this article:

(a) "Board" or "division" means the Division of Medical Quality of the Board of Medical Quality Assurance of the State of California.

(b) "Committee" means a diversion evaluation committee created by this article.

2421. One or more diversion evaluation committees is hereby created in the state to be established by the division. Each committee shall be composed of five persons appointed by the division.

Each committee shall have the following composition:

(a) Three physicians and surgeons licensed under this chapter. The division in making its appointments shall give consideration to recommendations of medical associations and local medical societies and shall consider, among others, where appropriate the appointment of physicians and surgeons who have recovered from impairment or who specilize in psychiatry or who have knowledge and expertise in the management of impairment.

(b) One member nominated by medical quality review committees who is not a member of a medical quality review committee.

(c) One member not licensed as a physician and surgeon.

Each person appointed to a committee shall have experience or knowledge in the evaluation or management of persons who are impaired due to alcohol or drug abuse, or physical or mental illness.

It shall require the affirmative vote of four members of the division to appoint a person to a committee. Each appointment shall be at the pleasure of the division for a term not to exceed four years In its discretion the division may stagger the terms of the initial members appointed.

2421 1 Each member of a committee shall receive a per diem and expenses as provided in Section 103.

2421 2 Three members of a committee shall constitute a quorum for the transaction of business at any meeting. Any action requires the majority vote of the committee.

2421.3. Each committee shall elect from its membership a chairperson and a vice chairperson

2421 4. The division may adopt, amend or repeal in accordance with the provisions of the Administrative Procedure Act (Chapter 4 (commencing with Section 11370), Chapter 4 5 (commencing with Section 11371), Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), such regulations as may reasonably be necessary to carry into effect the provisions of

this article.

2422. (a) The division shall establish criteria for the acceptance, denial or termination of physicians in a diversion program. Only those physicians who have voluntarily requested diversion treatment and supervision by a committee shall participate in a program.

(b) The division shall establish criteria for the selection of administrative physicians who shall examine physicians requesting diversion under a program. Any reports made under this article by the administrative physician shall constitute an exception to Section 2379 and to Sections 994 and 995 of the Evidence Code.

(c) The division shall require biannual reports from each committee which include, but are not limited to, information concerning the number of cases accepted, denied or terminated with compliance or noncompliance and a cost analysis of the program. The Bureau of Medical Statistics may assist the committees in the preparation of such reports.

2422.1. The committee shall inform each physician who requests participation in a program of the procedures followed in the program, of the rights and responsibilities of the physician in the program and of the possible results of noncompliance with the program.

2423. Each committee shall have the following duties and responsibilities.

(a) To evaluate those physicians who request participation in the program according to the guidelines prescribed by the division and to consider the recommendation of the medical consultant on the admission of the physician to the diversion program.

(b) To review and designate those treatment facilities to which physicians in a diversion program may be referred.

(c) To receive and review information concerning a physician participating in the program.

(d) To call meetings as necessary to consider the requests of physicians to participate in a diversion program, and to consider reports regarding physicians participating in a program from an administrative physician or physicians or others

(e) To consider in the case of each physician participating in a program whether he or she may with safety continue or resume the practice of medicine.

(f) To set forth in writing for each physician participating in a program a treatment program established for each such physician with the requirements for supervision and surveillance.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the program's progress, review data as required in reports to the division, to prepare reports to the division and to suggest proposals for changes to the diversion program.

2423.1 Notwithstanding the provisions of Chapter 1 (commencing with Section 11120) of Part 1 of Division 2 of Title 2 of the Government Code, a committee may convene in executive session to consider reports pertaining to any physician requesting or

participating in a diversion program. A committee shall only convene in executive session to the extent that it is necessary to protect the privacy of such a physician.

2423.2. Each physician who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a committee. Any failure to comply with the provisions of a treatment program may result in termination of the physician's participation in a program.

2424. (a) After a committee in its discretion has determined that a physician has been rehabilitated and the diversion program is completed, the committee shall purge and destroy all records pertaining to the physician's participation in a diversion program.

(b) All board and committee records and records of proceedings pertaining to the treatment of a physician in a program shall be kept confidential and are not subject to discovery or subpoena.

2424.1. The board shall provide for the representation of any persons making reports to a committee or the board under this article in any action for defamation in accordance with Section 2116.5

SEC. 2. For the fiscal year 1979–80, for the period from January 1, 1980, to June 30, 1980, the sum of fifty-nine thousand nine hundred and forty-eight dollars ($59,948) is hereby appropriated from the Board of Medical Quality Assurance Contingency Fund to the Division of Medical Quality for purposes of this act.

CHAPTER 773

An act to add Part 2.6 (commencing with Section 56) to Division 1 of the Civil Code, relating to medical information.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Part 2.6. (commencing with Section 56) is added to Division 1 of the Civil Code, to read:

PART 2 6. CONFIDENTIALITY OF MEDICAL INFORMATION

CHAPTER 1. DEFINITIONS

56 This part may be cited as the Confidentiality of Medical Information Act

56 05 For purposes of this part·

(a) "Patient" means any natural person or his legal representative or the beneficiary or personal representative of a deceased person

(b) "Requester" means any person, partnership, corporation, or

other private or public entity, its agent, representative, employee or independent contractor, which requests medical information regarding a patient with respect to any matter affecting his or her employment, insurance or insurability, or a claim for medical or hospital benefits or benefits under a life or disability insurance policy. A requester shall not include a provider of health care who requests such medical information for purposes of diagnosis or treatment, or a provider of health care when providing information describing diagnoses and services rendered to an insurer, hospital, or health care service plan for the purpose of obtaining payment.

(c) "Medical information" means all information in possession of or derived from providers of health care regarding a patient's medical history, mental or physical condition, or treatment.

(d) "Provider of health care" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2. (commencing with Section 1200) of the Health and Safety Code.

(e) "Authorization" means permission granted by the patient to a requester for the acquisition, possession, utilization and disclosure of that patient's medical information.

CHAPTER 2. AUTHORIZATIONS

56.10 An authorization for the release of medical information granted on or after January 1, 1980, shall not be valid unless it:

(a) Is in writing

The typeface of the authorization shall be at least eight-point type.

(b) Is clearly separate from any associated claim or application language, or any other language, present on the same page

(c) Is signed by the patient.

The authorization may be signed by the patient's spouse or by the parent, conservator or guardian of a patient who is a minor or an enrolled dependent for the sole purpose of processing an application for health insurance or enrollment in a nonprofit hospital or health care service plan, and the processing of claims thereunder.

The authorization may be signed by a parent, conservator, or guardian for the sole purposes of making a claim for benefits or damages provided the claimant is a minor, or of underwriting a life insurance policy provided the person to be insured is a minor.

The authorization may be signed by a minor who can lawfully consent to the provision of medical services under Part 1 (commencing with Section 25) or Part 2 7 (commencing with Section 60) of Division 1

(d) States the types of medical information the patient is authorizing to be disclosed

(e) States the names or functional activities of the persons, partnerships, corporations or other private or public entities from whom the patient is authorizing the medical information to be acquired.

(f) States the names or functional activities of the persons, partnerships, corporations or other private or public entities to whom the patient is authorizing medical information to be disclosed.

Any person, partnership, corporation or other private or public entity, to whom the patient authorizes medical information to be disclosed pursuant to this subdivision shall be considered a requester for the purposes of this part.

(g) States the purposes for which the medical information may be used by any of the parties named in subdivision (f).

(h) States the length of time the authorization shall remain valid.

(i) Advises the patient of the right to receive a copy of the authorization.

Upon demand by the patient, the requester shall furnish a true copy of the signed authorization and its receipt by the patient shall be noted on the original copy of the authorization.

CHAPTER 3. ACQUISITION AND DISCLOSURE OF MEDICAL INFORMATION

56.15. (a) No requester shall acquire medical information regarding a patient without first obtaining authorization from that patient, except as provided in subdivision (c).

(b) No requester shall disclose any information acquired pursuant to an authorization to any person, corporation, partnership, or other entity whose name or functional activity does not appear on the authorization, except as provided in subdivision (c).

(c) (1) Such information may be acquired and shall be disclosed when disclosure is compelled:

(A) By a court pursuant to an order of that court.

(B) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(C) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, investigative subpoena issued pursuant to Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code, or any provision authorizing discovery in a proceeding before a court or administrative agency

(D) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued pursuant to Section 1282.6 of the Code of Civil Procedure, or to a party or arbitrator to an uninsured motorist arbitration proceeding pursuant to Section 11580.2 of the Insurance Code.

(E) When otherwise specifically required by law

(2) Such information may be acquired and disclosed as follows:

(A) (For peer review of physicians) Such information may be acquired by and disclosed to organized committees of professional societies, including components or subsidiaries thereof, or of medical staffs of licensed hospitals, or to professional standards review organizations organized in a manner which makes available professional competence to review professional competence or qualifications or health care services with respect to medical necessity, quality of care, or economic justification of charges or level of care.

(B) (For medical research) Such information may be acquired by and disclosed to public agencies, clinical investigators, health care research organizations, and to accredited public or private nonprofit educational or health care institutions for research purposes, provided that pursuant to federal regulations entitled "Protection of Human Subjects" and found in Part 46 (commencing with Section 46.101) of Subtitle A of Title 45 of the Code of Federal Regulations, as now or hereafter amended, the research has first been reviewed and approved according to the regulations, and provided, further that no information so acquired shall be further disclosed in any way which would permit identification of an individual about whom the information was acquired.

(C) (Preexisting authorizations) Where an authorization from the patient was granted prior to January 1, 1980, and where current law other than the provisions of this part, does not prohibit the disclosure of information to the entity requesting it, such information may be acquired and disclosed if it is relevant to a claim being processed or investigated for the following purposes:

(i) Such information may be acquired and disclosed for the purposes of administering provisions in policies or contracts of life or health insurance, or hospital or health care service plan contracts, which establish, adjust, or coordinate benefits or services to which the patient may be entitled, during claim determination periods, not to exceed three years, established by such policies or contracts,

(ii) Such information may be acquired by and disclosed to an insurer, self insurer, hospital or health care service plan, an attorney or licensed independent insurance adjuster retained by them, for the purpose of processing or investigating a claim or demand based on the alleged liability of such insurer, self insurer, or plan, or of such person, parties or entities insured provided that the patient is notified of the nature of medical information disclosed and to whom it was transferred

For purposes of this subparagraph, where medical information in the possession of an insurer, hospital or health care service plan, an attorney or licensed independent insurance adjuster retained by them, was acquired prior to January 1, 1974, it shall be presumed that it was acquired from the patient pursuant to an authorization which was valid at the time it was granted This presumption shall expire and become null and void on January 1, 1984

(D) Such information may be acquired by a direct service health care service plan from providers which contract with the plan and may be transferred among providers which contract with the plan, for the purpose of administering the plan. Such information may not otherwise be acquired or disclosed by a direct service health care service plan except in accordance with the provisions of this part other than this subsection.

(3) Whenever medical information is acquired by disclosures authorized by paragraph (2) of this subdivision, the transferor shall be responsible for informing the transferee that the use and disclosure of the medical information transferred is governed by this part.

Any person who acquires medical information pursuant to paragraph (2) of this subdivision shall disclose such information only where disclosure is compelled as provided in paragraph (1), to the extent specifically permitted by subparagraphs (B) and (C) of paragraph (2), or to a person, partnership, corporation or other entity which has an authorization specifically permitting such disclosure.

(4) Such information may be acquired by and disclosed to the entities listed in paragraph (1) of subdivision (c) for purposes of adjudication by a party thereto.

56.16. (a) Except for medical research as specifically provided in subparagraph (B) of paragraph (2) of subdivision (c) of Section 56.15, no entity, private or governmental, that collects individually identifiable medical information regarding profiles or patterns of medical care or utilization by patients or providers, shall disclose any such information that identifies any individual patient, unless authorized by the patient, or specifically required by law.

(b) Every contract with a billing company for the processing of medical claims, or related invoices, insurance forms, or disability data, shall include in that contract a provision that individually identifiable medical information shall not be disclosed without the authorization of the patient.

56.17. The responsibility and liability for securing a required release from an individual who is an applicant for health insurance, for membership in a health insurance plan or a hospital or health care service plan shall be that of the party who secures the application for coverage from the applicant, whether the health insurance carrier, health insurance plan, hospital or health care service plan, or master contract holder, as appropriate

56.18 Upon an inquiry as to the presence or general condition of a specific patient, a hospital or other health care facility may, unless otherwise requested by the patient, next of kin or the provider of health care, release at its discretion none, part or all of the following information· the patient's name, address, age and sex, reason for admission, general nature of injuries, or the general condition of the patient The hospital or other health care facility shall notify the patient or next of kin, and the provider of health care of the

provisions of this section as soon as possible after the admission of the patient

56.19. Nothing in this part shall be deemed to affect existing law relating to a patient's right of access to his or her own medical information, or relating to disclosures made pursuant to Section 1158 of the Evidence Code.

56.20. Nothing in Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 shall be construed to permit the acquisition or disclosure of medical information regarding a patient without an authorization where such authorization is required by this part.

56.21. Where the acquisition or disclosure of medical information regarding a patient is prohibited or limited by any provision of Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3, such prohibition or limit shall be applicable in addition to the requirements of this part.

56.22. The disclosure of medical information regarding a patient which is subject to subdivision (b) of Section 1798.24 shall be made only with an authorization from the individual patient which complies with the provisions of this part, provided; however, such disclosure may be made only within the time limits specified in subdivision (b) of Section 1798 24.

CHAPTER 4 RELEASE OF MEDICAL RECORDS TO EMPLOYERS

56.24 No person shall disclose any individually identifiable medical information regarding a patient to that patient's employer or union or a person to whom the patient is applying for employment without an authorization from the patient as provided in Chapter 2 (commencing with Section 56.10), except as follows:

(a) Pursuant to a contract in effect prior to January 1, 1980, which authorizes the release of medical information in connection with claims submitted for benefits, provided that the individual whose employment or union membership forms the basis for such a claim, was hired or joined prior to January 1, 1980

(b) When otherwise specifically required by law.

CHAPTER 5. EXEMPTIONS

56.25. The disclosure and use of the following shall not be subject to the provisions of this part:

(a) (Mental health and developmental disabilities) All information and records obtained in the course of providing services under Division 4 (commencing with Section 4001), Division 4.1 (commencing with Section 4400), Division 4 5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) of the Welfare and Institutions Code;

(b) (Public Social Services) Information and records which are

subject to Sections 10850, 14124.1, and 14124.2 of the Welfare and Institutions Code;

(c) (State health services, communicable diseases, developmental disabilities) Information and records maintained pursuant to Chapter 2 (commencing with Section 200) of Part 1 of Division 1 of, Division 4 (commencing with Section 3000) of the Health and Safety Code;

(d) (Licensing and Statistics) Information and records maintained pursuant to Division 2 (commencing with Section 1200) of, and Division 9 (commencing with Section 10000) of, the Health and Safety Code, Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code, and Section 224s of the Civil Code;

(e) (Medical survey, worker's safety) Information and records acquired and maintained pursuant to Sections 1380 and 1382 of the Health and Safety Code and Division 5 (commencing with Section 6300) of the Labor Code;

(f) (Industrial Accidents) The use and disclosure of information and records acquired and maintained pursuant to Division 1 (commencing with Section 50), Division 4 (commencing with Section 3201), Division 4.5 (commencing with Section 6100), and Division 4.7 (commencing with Section 6200) of the Labor Code;

(g) Medical information and records disclosed to, and their use by, the Insurance Commissioner, the Division of Industrial Accidents, the Workers' Compensation Appeals Board, or the Department of Insurance.

(h) Nothing in this part shall apply to any governmental agency seeking or acquiring medical records as part of the investigation or prosecution of a violation of law. Nothing in this part shall apply to any transmittal of medical information from one governmental agency to another for the purpose of furthering an investigation or prosecution of a violation of law In such circumstances, current law shall apply to the acquisition, use and disclosure of such medical information.

(i) Nothing in this part shall affect provisions of the Evidence Code governing laws on confidentiality

(j) Nothing in this part shall preclude a county fiscal department or fiscal agency from seeking or acquiring a patient's medical information and records, when such information is relevant to medical services provided to the patient at a facility for which the county is fiscally responsible in whole or in part for the medical services provided pursuant to a contract with such facility. When so acquired such information may be used only for the following purposes. (1) auditing, (2) preparation for arbitration or litigation resulting from dispute relating to services provided to the patient, and (3) dispute resolution No medical information so acquired shall be used or disclosed for any purpose not directly related to the above purposes

CHAPTER 6. VIOLATIONS

56.30. In addition to any other remedies available at law, a patient may recover compensatory damages for violation of the provisions of this part. In addition to such compensatory damages, an applicant may recover civil damages not to exceed three thousand dollars ($3,000), attorneys' fees not to exceed one thousand dollars ($1,000), and the costs of litigation.

56.31. A violation of the provisions of this part shall be punishable as a misdemeanor pursuant to Section 17 of the Penal Code.

56.32. Any waiver by a patient of the provisions of this part, except as authorized by Section 56.10, shall be deemed contrary to public policy and shall be unenforceable and void.

SEC. 2. By January 1, 1981, the Health and Welfare Agency shall submit a report to the Legislature proposing legislation to implement the spirit of this act for state financed or state provided health programs.

SEC. 3. It is the intent of the Legislature that nothing in this act shall apply to law enforcement and prosecution activities of governmental agencies, where medical information is sought, acquired or disclosed as part of the investigation or prosecution of a violation of law.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 774

An act to repeal, add, and repeal, Chapter 8 (commencing with Section 52200) of Part 28 of, the Education Code, relating to gifted pupils.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code is repealed.

SEC. 2. Chapter 8 (commencing with Section 52200) is added to Part 28 of the Education Code, to read:

CHAPTER 8. GIFTED AND TALENTED PUPIL PROGRAM

52200. (a) The Legislature finds and declares that it is in the public interest to support unique opportunities for high-achieving

and under-achieving pupils in the public elementary and secondary schools of California who are identified as gifted and talented. The Legislature further declares its intent that special efforts be made to ensure that pupils from economically disadvantaged and varying cultural backgrounds be provided with full participation in such unique opportunities.

(b) In addition, it is the intent of the Legislature to improve the quality of existing programs for gifted and talented pupils and to provide for experimentation in the delivery of such programs, including a variety of programmatic approaches and cost levels. It is also the intent of the Legislature to provide for the identification of gifted and talented pupils by individual school districts in a variety of ways so long as this does not serve to diminish the quality of programs for individual pupils.

(c) The Legislature is committed to the belief that programs for gifted and talented pupils should include all of the following:

(1) Differentiated opportunities for learning commensurate with the gifted and talented individual's particular abilities and talents.

(2) Alternative learning environments in which gifted and talented individuals can acquire skills and understanding at advanced ideological and creative levels commensurate with their potentials.

(3) Elements that help the gifted and talented develop sensitivity and responsibility to others.

(4) Elements that help to develop a commitment in gifted and talented individuals to constructive ethical standards.

(5) Elements that assist the gifted and talented to develop self-generating problem-solving abilities to expand each pupil's awareness of choices for satisfying contributions in his or her environment.

(6) Elements that help gifted and talented pupils develop realistic, healthy self-concepts.

52201. (a) "Gifted and talented pupil," as used in this chapter, means a pupil enrolled in a public elementary or secondary school of this state who is identified as possessing demonstrated or potential abilities that give evidence of high performance capability as defined pursuant to Section 52202.

(b) "Program" means an appropriately differentiated curriculum provided by a district for gifted and talented pupils which meets the standards established pursuant to this chapter, and also includes the identification of such pupils.

(c) "Participating pupil" means a pupil identified as a gifted and talented pupil who takes part in a program for at least one semester of a school year.

52202. For the purposes of this chapter, the demonstrated or potential abilities that give evidence of high performance capability shall be defined by each school district governing board in accordance with regulations established by the State Board of Education. Each district shall use one or more of the following

categories in defining such capability: intellectual, creative, specific academic, or leadership ability; high achievement; performing and visual arts talent; or any other criteria which meets the standards set forth by the State Board of Education pursuant to Section 52203. Each governing board shall also consider identifying as gifted or talented any pupil who has transferred from a district in which he or she was identified as a gifted and talented pupil.

52203. The State Board of Education shall issue regulations by April 1, 1980, governing the following areas:

(a) Procedures which school district governing boards shall use in identifying gifted and talented pupils who are eligible for the program and in providing programs pursuant to this chapter.

(b) Definitions of special day classes, part-time grouping, enrichment activities, cluster grouping, independent study, acceleration, postsecondary education opportunities and other programs which the State Board of Education deems appropriate.

(c) Establishment of allowable indirect cost expenditures which may be funded by gifted and talented program funds.

(d) Other areas which the board deems necessary to implement fully the intent and provisions of this chapter.

This section shall become operative on January 1, 1980.

52204. Any school district governing board which provided a mentally gifted minor program in the 1978–79 school year may elect to provide a program for gifted and talented pupils pursuant to this chapter, subject to the provisions of Section 52211 If a governing board elects to provide such a program, it shall submit a description of the proposed program and the processes by which the qualifications of teachers and supervisory personnel shall be determined for the approval of the State Board of Education.

52205. The Superintendent of Public Instruction shall.

(a) Apportion funds pursuant to this chapter to each district whose application to offer programs pursuant to this chapter has been approved by the State Board of Education according to the provisions of this chapter and regulations adopted by the board.

(b) Assist local governing boards, upon their request, to design, implement, and evaluate programs funded under this chapter.

(c) Ensure that the funds authorized for programs pursuant to this chapter are expended consistent with the provisions of this chapter.

(d) Encourage the development of locally-designed, innovative programs for gifted and talented pupils.

(e) Assist local districts in the development and implementation of staff development programs related to gifted and talented pupils

(f) Give priority in technical assistance to those districts receiving the greatest total increase in funds.

52206. School district governing boards of districts which provide programs pursuant to this chapter may establish programs for gifted and talented pupils consisting of special day classes, part-time grouping, enrichment activities, cluster grouping, independent

study, acceleration, postsecondary education opportunities, and other program approaches as proposed by the governing board and consistent with the regulations of the State Board of Education. If the district establishes such programs, the district shall provide them to identified pupils for an amount of time each week which shall average a minimum of one class equivalent to 200 minutes per week for 30 weeks of the school year. Such time requirements may be waived upon approval of the State Board of Education.

Each participating governing board shall determine the most appropriate curricular components for participating students within its district.

For all programs for gifted and talented pupils, including programs for pupils with high creative capabilities and talents in the performing and visual arts, each participating governing board shall concentrate part of its curriculum on providing participating pupils with an academic component and, where appropriate, with instruction in basic skills.

52207. Each governing board, providing programs pursuant to this chapter, subject to such terms and conditions as may be agreed upon, may contract with another school district to furnish programs or may contract to educate such pupils living in other districts.

The county superintendent may, with the approval of the county board of education and the governing board of the school district involved, provide programs pursuant to the provisions of this chapter, and transportation therefor, for gifted and talented pupils who reside in any school district. For such purposes, the terms "school district" and "governing board of a school district," as used in this chapter, shall be deemed to include the county superintendent of schools.

52208. Each school district governing board of a district providing programs pursuant to this chapter shall: (1) conduct an annual assessment of the program; and (2) develop procedures that assure the ongoing participation of parents of gifted and talented pupils in the planning and evaluation of programs funded pursuant to this chapter.

52209. The governing board of any school district which provides a program for gifted and talented pupils pursuant to this chapter may:

(a) Conduct programs, seminars, and classes for gifted and talented pupils within or without the boundaries of the school district, and for that purpose employ instructors, supervisors, and other personnel and provide necessary equipment and supplies.

(b) Transport or arrange for transportation of pupils to or from educational institutions where regularly scheduled programs and classes are being conducted.

Attendance of pupils at such programs, seminars, and classes shall be included in computing the average daily attendance of the district for the purposes of apportionments from the State School Fund.

Moneys from this program shall not be used for educational field

trips. This limitation may be waived by the Superintendent of Public Instruction

No district may exceed expenditure of state funds of two hundred fifty dollars ($250) per pupil for program services pursuant to this chapter except in extraordinary circumstances and with the specific approval of the Superintendent of Public Instruction. This amount shall increase at the rate of 6 percent per year.

Funds provided in support of this chapter shall be used solely for the purposes described herein. Allowances provided in any fiscal year but not expended in that year may be expended in subsequent fiscal years.

52210. The governing board of a school district, in providing programs pursuant to this chapter, may enter into agreements with a county superintendent of schools to conduct programs for gifted and talented pupils enrolled in the schools of the district.

52211 The Superintendent of Public Instruction shall, beginning in the 1980–81 school year, apportion funds to school districts pursuant to the provisions of this section. However, if any eligible school district decides not to participate in the program, the State Board of Education shall have the authority to select a replacement district from among the remaining districts in the state.

The Superintendent of Public Instruction shall apportion funds to each participating district in the following manner:

(a) Districts which have 1 to 10 participating pupils shall receive seventy-five dollars ($75) per semester for each participating pupil.

(b) Districts which have 11 to 25 participating pupils shall receive sixty-eight dollars ($68) per semester for each participating pupil.

(c) Districts which have 26 to 50 pupils shall receive fifty-eight dollars ($58) per semester for each participating pupil.

(d) All other participating districts shall, for each unit of average daily attendance in the district, receive an amount to be computed in the following manner.

(1) (A) For the fiscal year 1980–81, for each participating district, the Superintendent of Public Instruction shall compute the 1978–79 total amount apportioned for purposes of operating the mentally gifted minors program divided by the 1978–79 average daily attendance in that district.

(B) For the fiscal year 1981–82 and each succeeding fiscal year, for each participating district, the Superintendent of Public Instruction shall compute the previous year's total amount apportioned for purposes of operating the gifted and talented pupils' program divided by the prior year's average daily attendance in that district.

(2) Districts for which the amount computed in paragraph (1) exceeds five dollars and forty-three cents ($5.43) shall receive 0.95 times the amount computed in paragraph (1).

(3) Districts for which the amount computed in paragraph (1) exceeds the amount computed in subdivision (e) for the prior fiscal year, but is less than or equal to five dollars and forty-three cents ($5.43), shall receive the greater of (A) the amount computed in

paragraph (1) or (B) the amount computed in subdivision (e) for the current fiscal year.

(4) Districts for which the amount computed in paragraph (1) is less than or equal to the amount computed in subdivision (e) for the prior fiscal year shall, for each fiscal year receive the greater of (A) one-half of the amount computed in subdivision (e) for the prior fiscal year or (B) 1.7 times the amount computed in paragraph (1) except that this amount shall not exceed the amount computed in subdivision (e) for the current fiscal year.

(e) For the 1980–81 fiscal year, the amount for the purpose of computation in paragraphs (3) and (4) of subdivision (d) and subdivision (g) shall be the total of the program apportionments in the 1978–79 fiscal year for mentally gifted minors divided by the total average daily attendance in those districts. For 1981–82 and each successive fiscal year, the amount for the purpose of computation in paragraphs (3) and (4) of subdivision (d) and subdivision (g) shall be the total of the apportionments in the prior fiscal year for gifted and talented pupils divided by the total average daily attendance in those districts.

(f) In the 1981–82 fiscal year, the amounts in subdivisions (a), (b), and (c) shall be increased by 7 percent per year. In the 1982–83 fiscal year, and each fiscal year thereafter, the amounts in subdivisions (a), (b), and (c) shall be increased by 6 percent.

(g) Districts which are newly admitted to the program shall receive, in the first year of admission, an amount equal to one-half of the amount computed in subdivision (e) times the average daily attendance of that district. In the second and successive years, each such district shall receive the amount computed in subdivision (e) times the average daily attendance of that district.

If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section such allowances shall be reduced proportionately. If the sum apportioned for purposes of this section is more than sufficient to make the allowances specified by this section such allowances shall be increased proportionately.

52212. Each applicant school district shall submit an application for approval for a proposed program for gifted and talented pupils to the State Board of Education. The application shall be submitted in the form and manner prescribed by the Superintendent of Public Instruction. The application shall include budget information including separate data on identification and program costs, and any other data required by the Superintendent of Public Instruction effectively to administer and evaluate the program.

Each participating governing board shall maintain auditable records.

Each applicant school district shall designate in its application to the State Board of Education, a person with responsibility for the development, identification procedure, and implementation of the local program for gifted and talented pupils, fiscal management, and for the collection of auditable records for the independent

evaluation.

In order to ensure compliance with this chapter during the pilot period and to provide information sufficient to later evaluate the wide variety of district programs as provided for by Section 52200, applications for local district programs shall be developed by the Department of Education and made available to districts no later than April 1, 1980. Such application shall not be part of the consolidated application.

This section shall become operative on January 1, 1980.

52213. The Department of Education, with the approval of the Legislative Analyst and the Department of Finance, shall contract for an independent evaluation of programs for gifted and talented pupils established pursuant to this chapter. The Department of Education shall submit to the Legislative Analyst and the Department of Finance by February 15, 1980, a finalized request for proposals which specifies the scope, work plan, and other necessary information for potential bidders on the independent contract. In conducting the evaluation the contractor shall examine, the benefits, costs, consequences, and impact of the gifted and talented program and shall provide information on these issues and make appropriate policy recommendations in a report to the Legislature on January 5, 1984.

This section shall become operative on January 1, 1980.

52214. This chapter shall remain in effect only until June 30, 1985, and on such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1985, deletes or extends such date.

SEC. 3. Sections 1 and 2, except Sections 52203, 52212 52213 of the Education Code, of this act shall become operative June 30, 1980.

CHAPTER 775

An act to amend Section 1001.11 of, and to repeal Section 1001.10 of, the Penal Code, relating to pretrial diversion.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1 Section 1001.10 of the Penal Code is repealed.

SEC. 2. Section 1001.11 of the Penal Code is amended to read:

1001.11. This chapter shall remain in effect until January 1, 1982, and on such date is repealed. However, if at the time this chapter is repealed a defendant has already been referred to and accepted by a diversion program or if a defendant is then participating in such a program, that defendant shall be allowed to continue in and complete such program.

CHAPTER 776

An act to amend, repeal, and add Section 39807.5 to, to add Section 39809.5 to, to add and repeal Section 39809 of, and to repeal Sections 39804 and 82304 of, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 39804 of the Education Code is repealed.

SEC 2. Section 39807.5 of the Education Code is amended to read:

39807.5. When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with the provisions of Section 39800, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of such transportation in an amount determined by the governing board. The amount determined by the board shall be no greater than the statewide average nonsubsidized cost of providing such transportation to a pupil on a publicly owned or operated transit system as determined by the Superintendent of Public Instruction, in cooperation with the Department of Transportation. For the purposes of this section, "nonsubsidized cost" means actual operating costs less federal subventions. The governing board shall exempt from such charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board No charge under this section shall be made for the transportation of handicapped children. Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

This section shall remain in effect 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. 3. Section 39807 5 is added to the Education Code, to read:

39807.5. When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with the provisions of Section 39800, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of such transportation in an amount determined by the governing board provided that such district does not qualify to receive reimbursement from the State School Fund for transportation under Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of this division in the year in which the requirement to pay is made. The amount determined by the board shall be no greater than the

actual cost of providing such transportation to a pupil on such a common carrier or municipally owned transit system. The governing board shall exempt from such charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board. No charge under this section shall be made for the transportation of handicapped children. Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

This section shall become operative July 1, 1982.

SEC. 4. Section 39809 is added to the Education Code, to read:

39809. The Department of Education shall adopt guidelines for those school districts which require parents or guardians or pupils to pay a portion of the cost of transportation. It is the intent of the Legislature that no increase in the cost of transporting a pupil for the purpose of complying with a court order be borne by the parent or guardian of the pupil.

This section shall remain in effect 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. 5. Section 39809.5 is added to the Education Code, to read:

39809.5. (a) In no case shall the sum of the state aid received and the parent fees collected exceed actual operating cost of home to school transportation.

(b) If excess fees are collected due to errors in estimated costs, fees shall be reduced in succeeding years.

(c) The governing board shall certify to the county superintendent that districts have levied fees in accordance with law, and that fees have been reduced and excess fee revenue eliminated whenever excess fees have been charged.

SEC. 6. Section 82304 of the Education 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 school districts to incorporate changes made by this act into their 1979–80 budgets and in order to implement the provisions of this act for the 1979–80 school year it is necessary for this act to take effect immediately.

CHAPTER 777

An act to add Article 9 (commencing with Section 33420) to Chapter 3 of Part 20 of the Education Code, relating to educational funds.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Article 9 (commencing with Section 33420) is added to Chapter 3 of Part 20 of the Education Code, to read:

Article 9. Audits of Contracting Agencies

33420. (a) The Superintendent of Public Instruction, in cooperation with the Department of Finance and the Auditor General, shall, on or before July 1, 1980, provide for a plan for independent audits of state and federal funds allocated to private agencies which are under contract with the Department of Education for the provision of educational services.

For the purpose of this article, "educational services" includes, but is not limited to, child nutrition and child development services.

To the maximum extent possible, the plan shall conform to audit procedures pursuant to Section 41020.5.

(b) Effective July 1, 1980, the Department of Education, as a condition to any contract with a private agency for the provision of educational services, shall require an annual audit of state and federal funds to be conducted by a certified public accountant or public accountant who is licensed by the California State Board of Accountancy. The audit shall be limited to those state and federal funds accruing to the private agency as a result of its contract with the Department of Education.

(c) If in the course of such audits of a private agency, an audit exception is reported by the certified public accounting firm in excess of a material amount as determined by the Superintendent of Public Instruction, the Superintendent of Public Instruction shall, upon final determination by the superintendent of the amount of the audit exception, collect such audit exception and redistribute the amount collected to the same class of program, or withhold the amount of the audit exception from the next payment to the agency in which the audit exception was discovered.

(d) The Department of Education may exempt from the provisions of this section those agencies for which, in the department's estimation, the cost of an audit would be inordinate in relation to the level of funding received by the private agency for the educational services provided.

33421. Every private agency which receives state funds which may be audited pursuant to Section 33420 shall, at the request of the Superintendent of Public Instruction, make all records pertaining to its state-funded programs available to the Department of Education during regular business hours. Such records shall be retained by each private agency for at least five years.

CHAPTER 778

An act to add Section 3295 to the Civil Code, and to amend Section 425.10 of the Code of Civil Procedure relating to punitive damages.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 3295 is added to the Civil Code, to read:

3295. (a) The court may, for good cause, grant any defendant a protective order requiring the plaintiff to produce evidence of a prima facie case of liability for damages pursuant to Section 3294, prior to the introduction of evidence of:

(1) The profits the defendant has gained by virtue of the wrongful course of conduct of the nature and type shown by the evidence,

(2) The financial condition of the defendant.

(b) Nothing in this section shall prohibit the introduction of prima facie evidence to establish a case for damages pursuant to Section 3294.

SEC. 2. Section 425.10 of the Code of Civil Procedure is amended to read:

425.10. A complaint or cross-complaint shall contain both of the following:

(a) A statement of the facts constituting the cause of action, in ordinary and concise language.

(b) A demand for judgment for the relief to which the pleader claims he is entitled. If the recovery of money or damages be demanded, the amount thereof shall be stated, unless the action is brought in the superior court to recover actual or punitive damages for personal injury or wrongful death, in which case the amount thereof shall not be stated.

CHAPTER 779

An act to amend and renumber Sections 84208 and 84209 of, to add Sections 82031.5, 84100, 84104, 84300, 84306, 84307, and 84308 to, and to repeal Sections 82031, 82055, 84100, and 84300 of, the Government Code, relating to elections.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 82031 of the Government Code is repealed.

SEC. 2. Section 82031.5 is added to the Government Code, to

read:

82031.5. "Independent expenditure" means an expenditure that is not made to or at the behest of a committee or a candidate.

SEC. 3 Section 82055 of the Government Code is repealed.

SEC. 4. Section 84100 of the Government Code is repealed.

SEC. 5. Section 84100 is added to the Government Code, to read:

84100. Every committee shall have a treasurer. No expenditure shall be made by or on behalf of a committee without the authorization of the treasurer or that of his or her designated agents. No contribution or expenditure shall be accepted or made by or on behalf of a committee at a time when there is a vacancy in the office of treasurer.

SEC. 6. Section 84104 is added to the Government Code, to read:

84104. It shall be the duty of each candidate, treasurer and elected officer to maintain such detailed accounts, records, bills and receipts that are necessary to prepare campaign statements and to comply with the provisions of this chapter. The detailed accounts, records, bills and receipts that are maintained shall be retained by the filer for a period specified by the commission; provided, however, that the commission shall not require retention of records for a period longer than the statute of limitations specified in Section 91011 or two years after the adoption of an audit report pursuant to Chapter 10 (commencing with Section 90000) of this title, whichever is less.

SEC. 7 Section 84208 of the Government Code is amended and renumbered to read:

84226. When the Secretary of State receives any campaign statement filed pursuant to the federal Election Campaign Act, (2 U.S.C.A. Section 431 et seq.) the Secretary of State shall send a copy of the statement to the following officers:

(a) Statements of candidates for President, Vice President or United States Senator and committees supporting such candidates—one copy with the Registrar-Recorder of Los Angeles County and one copy with the Registrar of Voters of the City and County of San Francisco;

(b) Statements of candidates for United States Representative in Congress and committees supporting such candidates—one copy with the clerk of the county which contains the largest percentage of the registered voters in the election district which the candidate or any of the candidates seek nomination or election and one copy with the clerk of the county within which the candidate resides or in which the committee is domiciled, provided that if the committee is not domiciled in California the statement shall be sent to the Registrar-Recorder of Los Angeles County. No more than one copy of each statement need be filed with the clerk of any county.

SEC 8. Section 84209 of the Government Code is amended and renumbered to read:

84216.5. A candidate shall verify his or her campaign statement and the campaign statement of each committee subject to his or her

control. The verification shall be in accordance with the provisions of Section 81004 except that it shall state that to the best of his or her knowledge the treasurer of each controlled committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any committee from the obligation to verify each campaign statement filed by the committee pursuant to Section 81004.

SEC. 9. Section 84300 of the Government Code is repealed.

SEC. 10. Section 84300 is added to the Government Code, to read:

84300. (a) No contribution or expenditure of one hundred dollars ($100) or more shall be made in cash.

(b) No contribution of one hundred dollars ($100) or more other than an in-kind contribution shall be made unless by written instrument containing the name of the donor and the name of the payee.

(c) The value of all in-kind contributions of one hundred dollars ($100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.

SEC. 11. Section 84306 is added to the Government Code, to read:

84306. All contributions received by a person acting as an agent of a candidate shall be reported promptly to the candidate or any of his or her designated agents. All contributions received by a person acting as an agent of a committee shall be reported promptly to the committee's treasurer or any of his or her designated agents. "Promptly" as used in this section means not later than the closing date of any campaign statement the committee or candidate for whom the contribution is intended is required to file.

SEC. 12. Section 84307 is added to the Government Code, to read:

84307. No contribution shall be commingled with the personal funds of the recipient or any other person.

SEC. 13. 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.

SEC. 14. 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 780

An act to amend Sections 3371, 3373, 3375, 3376, 3377, 3377.1, and 3378 of, to amend and renumber Section 3370 of, to add Sections 3370 and 3372 to, and to repeal Sections 3372, 3374, 3380, and 3530 of, the Financial Code, relating to banks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 3370 is added to the Financial Code, to read:

3370. As used in this article, "bank" means:

(a) Any commercial bank or trust company incorporated under the law of this state;

(b) Any foreign banking corporation which is licensed by the superintendent under Article 1 (commencing with Section 1750) of Chapter 14 to maintain an office in this state and which is permitted under subdivision (c) of Section 1756 and Section 1756.1 or approved by the superintendent under Section 1756.2 to transact at such office the business of accepting deposits, with respect to any such office;

(c) Any corporation incorporated under the laws of this state which is 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) of Chapter 19; or

(d) Any foreign corporation which is licensed by the superintendent under Article 1 (commencing with Section 3500) of Chapter 19 to maintain an office in this state and to transact at such office business under such article, with respect to any such office.

SEC. 2. Section 3370 of the Financial Code is amended and renumbered to read:

3370.5. A bank shall not make any loan to any executive officer of the bank, directly or indirectly, or to any corporation in which such executive officer is a stockholder, director, officer or employee or to any partnership of which such executive officer is a partner or employee, or for the benefit of such executive officer or on the endorsement, surety, or guaranty of such executive officer, except as follows.

(a) A loan may be made to a corporation of which the executive officer is a director, officer, employee, or a minority stockholder; provided, that if the executive officer is a director, officer, or employee of such corporation or owns or controls directly or indirectly more than 10 percent of any class of the voting securities of such corporation or if two or more directors or executive officers of the bank own or control more than 20 percent of any class of the voting securities of such corporation, the loan is authorized in advance by a majority of all of the directors of such bank and the affirmative vote of two-thirds of the directors of such bank present at the meeting authorizing such loan; provided, that the interested party shall not vote or participate in any manner in the action of the board authorizing the loan, except with the consent of the superintendent previously obtained in writing.

(b) A loan may be made to a limited partnership of which the executive officer is a limited partner owning or controlling not more than a 50-percent interest, or an employee; provided, that if the

executive officer is an employee of such partnership or owns or controls more than a 10-percent interest or if two or more executive officers or directors of the bank own or control more than a 20-percent interest in such partnership, the loan is authorized in the manner provided in subdivision (a).

(c) A loan may be made to an executive officer to finance the purchase, construction, maintenance, or improvement of a dwelling of the executive officer, secured by a first lien on such dwelling; provided, that:

(1) The dwelling, whether existing at the time of the loan or to be constructed with the proceeds of the loan, is owned or after the making of the loan is expected to be owned by such executive officer and used as the executive officer's residence;

(2) The loan is a secured loan within the meaning of Section 1223 and, with respect to an existing dwelling, the market value of the property for purposes of Section 1227 or 1228 has been determined by an independent appraisal of such property; and

(3) No other loan to such executive officer under authority of this subdivision is outstanding.

(d) A loan may be made to an executive officer for the purpose of financing the education of the children of such executive officer; provided, that such loan, together with other outstanding loans made to such executive officer under authority of this subdivision, does not exceed the aggregate amount of twenty thousand dollars ($20,000)

(e) A loan may be made to an executive officer if such loan, together with any outstanding loans to the executive officer (other than loans made under authority of subdivisions (a), (b), (c), or (d) of this section), does not exceed ten thousand dollars ($10,000).

(f) No loan authorized by subdivision (c), (d), or (e) may be made if the amount of such loan, when aggregated with the amount of all other loans then outstanding by the bank to such executive officer pursuant to such subdivisions, would exceed twenty-five thousand dollars ($25,000), unless such loan is approved in advance by a majority of all of the directors of such bank; provided, that the interested party shall not vote or participate in any manner in the action of the board approving the loan, except with the consent of the superintendent previously obtained in writing.

SEC. 3 Section 3371 of the Financial Code is amended to read:

3371. A bank shall not make any loan to a director of the bank, directly or indirectly, or to any corporation of which such director is a stockholder, director, officer, or employee or to any partnership of which such director is a partner or on the endorsement, surety, or guaranty of such director unless:

(a) The loan is secured by obligations of the United States or for the payment of which the faith and credit of the United States are pledged, obligations of the State of California or for the payment of which the faith and credit of the State of California are pledged, or bonds of any city, county, city and county, metropolitan water district, or school district of the State of California; or

(b) The loan is to a corporation of which such director is a stockholder, officer, or director and such director does not own or control more than 10 percent of any class of the voting securities of the corporation and no two or more executive officers or directors of the bank together own or control more than 20 percent of any class of the voting securities of the corporation; or

(c) The loan is to a limited partnership of which such director is a limited partner, and such director does not own or control more than a 10-percent interest in such partnership, and no two or more executive officers or directors of the bank together own or control more than a 20 percent interest in such partnership; or

(d) With respect to any other loan, the amount of the loan, when aggregated with the amount of all other loans (other than loans made under authority of subdivisions (b) and (c)) then outstanding by the bank to such director, or to a corporation or partnership in which the interest of such director exceeds the amounts set forth in subdivision (b) or (c), would not exceed twenty-five thousand dollars ($25,000); provided, however, that a loan in excess of such amount may be made if it is approved in advance by a majority of all of the directors of such bank. The interested director shall not vote or participate in any manner in the action of the board approving the loan, except with the consent of the superintendent previously obtained in writing

SEC 4 Section 3372 of the Financial Code is repealed

SEC 5 Section 3372 is added to the Financial Code, to read:

3372. As used in this article, "executive officer" means a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank, regardless of whether: (1) the officer has an official title, (2) the title designates the officer an assistant, or (3) the officer is serving without salary or other compensation The chairman of the board, the president, every vice president, the cashier, secretary, and chief financial officer of the bank shall be deemed executive officers unless, by resolution of the board of directors or the bank's bylaws, any such officer is excluded from participation, other than in the capacity as a director, in major policymaking functions and does not actually participate therein "Executive officer" does not include a manager or assistant manager of a branch of the bank unless he or she participates or is authorized to participate in major policymaking functions of the bank For purposes of this article, the manager of each office in this state of a bank described in subdivision (b) or (d) of Section 3370 shall be deemed to be an executive officer of such bank

SEC 6 Section 3373 of the Financial Code is amended to read

3373 (a) For the purpose of this article "loan" includes a making or renewal of any loan, a granting of a line of credit, or an extending of credit in any manner whatsoever, and includes

(1) A purchase under repurchase agreement of securities, other assets, or obligations;

(2) An advance by means of an overdraft, cash item, or otherwise;

(3) Issuance of a standby letter of credit (or other similar arrangement regardless of name or description) or an ineligible acceptance;

(4) An acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which a person may be liable as maker, drawer, endorser, guarantor, or surety;

(5) A discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, but the acquisition of such paper by a bank from another bank, without recourse, shall not be considered a discount by the bank for the other bank;

(6) An increase of an existing indebtedness, but not if the additional funds are advanced by the bank for its own protection for (i) accrued interest or (ii) taxes, insurance, or other expenses incidental to the existing indebtedness;

(7) An advance of unearned salary or other unearned compensation for a period in excess of 30 days; and

(8) Any other transaction as a result of which a person becomes obligated to pay money (or its equivalent) to a bank, whether the obligation arises directly or indirectly, or because of an endorsement on an obligation or otherwise, or by any means whatsoever.

(b) For the purpose of this article "loan" does not include:

(1) Advances against accrued salary or other accrued compensation, or advances for the payment of authorized travel or other expenses incurred or to be incurred on behalf of the bank.

(2) The receipt by a bank of any check deposited in or delivered to the bank in the usual course of business unless it results in the carrying of a cash item or the granting of an overdraft.

(3) The acquisition of any note, draft, bill of exchange, or other evidence of indebtedness (i) through a merger or consolidation of banks or a similar transaction by which a bank acquires assets and assumes liabilities of another bank or similar organization or (ii) through foreclosure on collateral or similar proceeding for the protection of the bank, provided that such indebtedness is not held for a period of more than 3 years from the date of acquisition, subject to extension by the superintendent for good cause.

(4) The endorsement or guarantee for the protection of a bank of any loan or other asset previously acquired by such bank in good faith.

(5) Any indebtedness for the purpose of protecting a bank against loss or giving financial assistance to it

(6) Indebtedness of five thousand dollars ($5,000) or less arising by reason of any general arrangement under which a bank (i) acquires charge or time credit accounts or (ii) makes payments to or on behalf of participants in a bank credit card plan, check credit plan, or similar plan; provided, that such indebtedness does not involve prior individual clearance or approval by the bank other than for the

purposes of determining authority to participate in the arrangement and compliance with any dollar limit under the arrangement and such indebtedness is incurred under terms that are not more favorable than those offered to the general public.

(b) The board of the bank may fix the aggregate amount of credit which may be extended during a given period not in excess of 14 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. 7. Section 3374 of the Financial Code is repealed.

SEC. 8. Section 3375 of the Financial Code is amended to read:

3375. A bank shall not make a loan to any corporation a majority of the stock of which is owned or controlled by any one or more of the directors or by one or more of the directors together with one or more executive officers of such bank collectively, or to any partnership a majority interest of which is owned or controlled by one or more of the directors or by one or more of the directors together with one or more executive officers of such bank collectively, except with the previous consent of the superintendent.

SEC. 9. Section 3376 of the Financial Code is amended to read:

3376. Any bank which makes a loan in violation of this article is liable to a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense. Any director, officer, or employee of a bank who knowingly makes or procures a loan in violation of this article is guilty of a felony.

SEC. 10. Section 3377 of the Financial Code is amended to read:

3377. A bank may make a loan, otherwise complying with the provisions of this division, to a nonprofit corporation or association engaged in religious, charitable, educational, scientific, literary, social, or recreational purposes notwithstanding that one or more directors or executive officers of such bank are directors, officers, employees, or members of such nonprofit corporation or association serving without compensation.

SEC. 11 Section 3377.1 of the Financial Code is amended to read:

3377.1. A bank may make a loan, otherwise complying with the provisions of this division, for the benefit of a trust, notwithstanding that such bank or any one or more executive officers or directors of such bank are trustees of such trust, provided that no executive officer or director of such bank is a beneficiary of such trust.

SEC. 12. Section 3378 of the Financial Code is amended to read:

3378. In making any loan to an executive officer or director pursuant to this article, the bank shall comply with all other applicable provisions of this division relating to loans by banks.

SEC. 13. Section 3380 of the Financial Code is repealed.

SEC. 14. Section 3530 of the Financial Code is repealed.

SEC 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

It is necessary to resolve the interpretation of existing law regarding loans made by banks to their executive officers. It is therefore necessary that this act take effect immediately.

CHAPTER 781

An act providing for the transfer of real property by the state.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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 convey to the County of San Joaquin, a portion of the real property of the Stockton State Hospital for the purpose of constructing a mental health facility, which is described as follows:

Commencing at the intersection of the Easterly line of California Street with the Southerly line of Harding Way; running thence along said Easterly line of California Street, South 11°41'30" East, 306.00 feet to the True Point of Beginning; continuing thence along said Easterly line of California Street, South 11°41'30" East, 875.83 feet; thence North 65°40'30" East, 266.90 feet to the back edge of a sidewalk along a private street within the State Hospital Grounds known as North American Street; thence along said back edge of sidewalk the following courses and distances: (1) North 35°40'30" West, 25.66 feet; (2) North 7°25' West, 92.92 feet; (3) North 15°38'30" East, 42.45 feet; (4) North 2°28' West, 300.97 feet; (5) North 12°05' West, 312.17 feet; and (6) North 11°11' East, 20.71 feet; thence parallel to the back of a curb and gutter, North 12°07'20" West, 35.59 feet; thence South 78°15'30" West, 330 32 feet to the point of beginning

Provided, however, that the deed or other instrument of conveyance shall specify the following conditions of the transfer: (1) 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, and (2) that if for any reason, the county ceases to use such property for county health and welfare purposes, the title to such property shall revert to the state.

CHAPTER 782

An act to add Section 14031.5 to the Government Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 14031.5 is added to the Government Code, to read:

14031.5. (a) The Mass Transit Revolving Account is hereby created in the State Transportation Fund. The sum of one million dollars ($1,000,000) is hereby transferred from the Transportation Planning and Development Account to the Mass Transit Revolving Account and appropriated to the department for expenditure for effectuating the purposes of the Urban Mass Transportation Act of 1964, as amended.

(b) Allocations may be made by the department from the Mass Transit Revolving Account to an applicant for the advance purchase of vehicles for programs reimbursable from the funds available from the Urban Mass Transportation Act, as amended, when such advance purchase will eliminate unnecessary delays in the procurement, purchase, and delivery of the vehicles.

(c) The department shall keep a record of all allocations pursuant to subdivision (b) and the account shall be reimbursed in full from the federal funds and local funds.

(d) The provisions of this section shall only be utilized during those fiscal years in which federal funds are available under the Urban Mass Transportation Act, as amended.

CHAPTER 783

An act to amend Section 833 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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 herein, all information required by the board or furnished in the property statement shall be held secret by the board. Information and records in the board's office which are not required to be kept or prepared by the board are not public

documents and are not open to public inspection.

(b) This section shall not apply to maps filed pursuant to Section 326 of this code

(c) Except as provided in Section 38706, the board may provide any assessment data in its possession to the assessor of any county. 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 deputy 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 784

An act to amend Sections 11100 and 11105 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 11100 of the Health and Safety Code is amended to read:

11100 (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the State Department of Justice of all such transactions.

(1) Phenyl-2-propanone

(2) Methylamine
(3) D-lysergic acid
(4) Ergotamine tartrate
(5) Diethyl malonate
(6) Malonic acid
(7) Ethyl malonate
(8) Barbituric acid
(9) Piperidine
(10) N-acetylanthranilic acid.

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 4.5 (commencing with Section 11371) of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes such substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes such substance to his patients

(3) Any manufacturer or wholesaler licensed by the Board of Pharmacy who sells, transfers, or otherwise furnishes such substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in paragraphs (1) to (9), inclusive, of subdivision (a) to a person in this state shall, within 72 hours thereafter, submit a report of such transaction to the Department of Justice. However, the Department of Justice may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that; (1) a pattern of regular supply of such substance exists as between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance, and (2) the recipient has established a record of utilization of such substance for lawful purposes

(e) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in paragraph (10) of subdivision (a) to a person in this state shall, not less then 21 days prior to delivery of such substance, submit a report of such transaction to the Department of Justice. However, the Department of Justice may authorize the submission of such reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that (1) a pattern

of regular supply of such substance exists as between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance, and (2) the recipient has established a record of utilization of such substance for lawful purposes.

SEC. 2. Section 11105 of the Health and Safety Code is amended to read:

11105. Any person who knowingly makes a false statement in connection with any report or record required under this article shall be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 785

An act to amend Sections 437.12 and 437 13 of, and to add Section 437.03 to, the Health and Safety Code, relating to health planning.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 437.03 is added to the Health and Safety Code, to read:

437.03. For the purposes of this part·

(a) "Health maintenance organization" or "HMO" means a public or private organization, organized under the laws of this state, which:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage.

(2) Is compensated (except for copayments) for the provision of basic health care services listed in paragraph (1) to enrolled participants on a predetermined periodic rate basis.

(3) Provides physician services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis)

(4) Is not a corporation organized or operating pursuant to Section 10810 of the Corporations Code.

(b) "Health maintenance organization for which assistance may be provided under Title XIII" means an HMO which is qualified under Section 1310(d) of Title XIII of the federal Public Health Service Act, or an HMO which the Secretary of Health, Education and Welfare determines, upon the basis of an application and the submission of any information and assurance which he finds necessary, may be eligible for assistance under Title XIII of the act.

SEC. 2. Section 437 12 of the Health and Safety Code is amended to read·

437 12. Taking into consideration the basis for decision set forth in Section 437.9:

(a) The state department may, in individual cases, grant certificates of need for projects with respect to which it determines that one of the following is applicable:

(1) The applicant has provided evidence that the project will meet the needs or reasonably anticipated needs of a special population including members of a religious body or denomination who desire to receive care and treatment in accordance with their religious convictions.

(2) The applicant has provided evidence that the project is or will be necessary to meet the health needs or reasonably anticipated health needs of adult residents of a nonprofit community care facility, as defined by subdivision (a) of Section 1502, which is owned by the applicant

(3) The applicant has provided evidence that, as a health facility, it has developed community support for its services as indicated by its current utilization patterns, and has provided health care services for at least five years.

(4) The applicant has provided evidence, when the project is for a new health facility or an increase in bed capacity, that there will be an equal or greater reduction in bed capacity in other health facilities in the area

Nothing in this subdivision shall require the state department to grant certificates of need as authorized by this section in any of the above categories

(b) In the case of a project for a service to be provided by or through a health maintenance organization for which assistance may be provided under Title XIII, the state department shall grant a certificate of need for the project unless the director finds that the project is not needed by the enrolled or reasonably anticipated new members of the HMO or proposed HMO or the beds or services to be provided are available from non-HMO providers or other HMO's in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO

For the purposes of subdivision (b), beds or services shall not be considered available if they are any of the following

(1) Dispersed in more than one facility when the HMO's basic

method of operation is to provide services through medical centers which consist of a hospital and medical offices at the same site.

(2) Not available under a contract of at least five years' duration, with an option to extend the contract for such additional time period as is reasonably necessary for the HMO to obtain a certificate of need and to construct and equip and begin operating alternative beds or service, in the event the non-HMO provider or other HMO gives notice that it intends to terminate the contract.

(3) Not available under circumstances which would grant full and equal staff privileges to an adequate number of physicians associated with the HMO in appropriate specialties, or otherwise not conveniently accessible through physicians and other health care professionals associated with the HMO.

(4) Not available in a manner which is administratively feasible to the HMO.

(5) More costly than if the services were provided by the HMO.

In order to qualify under this section, a project which is proposed to be provided by or through a health maintenance organization for which assistance may be provided under Title XIII, and which consists of or includes the construction, development, or establishment of a new inpatient health care facility, shall be a facility which the state department determines will be utilized by members of the health maintenance organization for at least 75 percent of the projected annual inpatient days, as determined in accordance with the recommended occupancy levels under the applicable health systems plan.

(c) In the case of a project for a service to be provided by or through an HMO, the state department shall not deny a certificate of need with respect to such service (or otherwise make a finding that such service is not needed) in those cases (1) when the state department has granted a certificate of need which authorized the development of the service, or expenditures in preparation for such offering or development (or has otherwise made a finding that such development or expenditure is needed), and when the offering of this service will be consistent with the basic objectives, time schedules, and plans of the previously approved application; provided, that the state department may impose a limitation on the duration of the certificate of need which shall expire at the end of such time unless the health service is offered prior thereto, or (2) solely because there is an HMO of the same type in the same area, or solely because the services are not discussed in the applicable health systems plan, annual implementation plan, state health plan, or state medical facilities plan.

(d) A project for a service to be provided by or through an HMO which is subject to review under this part shall remain subject to such review, unless the federal law states that an approved state program shall not require a certificate of need for such project.

The state department shall establish uniform procedures and criteria for approving applications under this section.

SEC. 3. Section 437.13 of the Health and Safety Code is amended to read:

437 13. (a) Notwithstanding any other provision of law, no proposal for the remodeling of any health facility licensed on or before September 9, 1976, or for the construction of any new health facility to replace in whole or in part any existing health facility licensed on or before September 9, 1976, or for the replacement of the equipment or services of any health facility licensed on or before September 9, 1976, shall be required to be approved as provided in this part, unless the proposal involves one of the following:

(1) An increase in bed capacity.

(2) The conversion of a facility in one category of licensure to a different category of licensure.

(3) The conversion of any of a health facility's existing beds from one classification set forth in Section 1250.1 to another classification, except as authorized by Section 437.10.

(4) A significant expansion or addition of diagnostic or therapeutic capability, or a significant expansion or addition of services.

(5) Location of the health facility on a site which is not the same site or immediately adjacent thereto.

(6) The remodeling or replacement of any special service set forth in subdivision (a), (b), (c), (d), (e), (f), (g), or (h) of Section 1255, which exceeds a cost of one hundred fifty thousand dollars ($150,000), unless a certificate of need has been obtained for such remodeling or replacement of such special service.

(7) The replacement of any diagnostic or therapeutic equipment at a cost in excess of one hundred fifty thousand dollars ($150,000), when such equipment has been in operation for five years or less. For the purposes of this paragraph, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the state department, shall be considered together.

(8) The replacement or remodeling of patient rooms and nursing stations costing in excess of two hundred fifty thousand dollars ($250,000), unless such replacement or remodeling meets the requirements of subdivision (b).

(9) Except as provided in subdivision (c), a project for the remodeling or replacement of all or any portion of a health facility or equipment thereof which is not limited to a project specified in paragraph (6), (7), or (8) of this subdivision and the cost of which exceeds the lesser of one million five hundred thousand dollars ($1,500,000) or four thousand dollars ($4,000) multiplied by the health facility's total authorized bed capacity, excluding the cost of projects covered in paragraph (6), (7), or (8).

(b) Any project specified in paragraph (8) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if any of the following conditions are met.

(1) Where the health facility has over the previous three years experienced an average licensed bed occupancy rate of over 80 percent, the licensed bed capacity shall not be required to be reduced by a remodeling or replacement proposal.

(2) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 76 nor more than 80 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 95 percent of the licensed bed capacity prior to the project.

(3) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 71 nor more than 75 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the licensed bed capacity prior to the project.

(4) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not less than 66 nor more than 70 percent, the licensed bed capacity of the health facility upon completion of the remodeling or replacement proposal shall not exceed 85 percent of the licensed bed capacity prior to the project

(5) Except as provided in paragraph (6) of this subdivision, where the health facility has over the previous three years experienced an average licensed bed occupancy rate of not more than 65 percent, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 80 percent of the licensed bed capacity prior to the project.

(6) Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the facility's average bed occupancy rate over the previous three years was in excess of 65 percent, the licensed bed capacity shall not be required to be reduced. Where the health facility serves a medically underserved population in a medically underserved area as determined by the Health Manpower Policy Commission and the health facility's average bed occupancy rate is below 65 percent over the previous three years, the licensed bed capacity of the facility upon completion of the remodeling or replacement proposal shall not exceed 90 percent of the facility's licensed bed capacity prior to the project.

(c) Any project specified in paragraph (9) of subdivision (a) which is not otherwise rendered ineligible for exemption by paragraphs (1) to (7), inclusive, of such subdivision, shall be entitled to an exemption under this section if the applicant demonstrates to the satisfaction of the director that the project is necessary in order for the facility to be able to continue the provision of service in a manner consistent with current standards of practice, and that the project meets all of the following criteria

(1) The proposed space in square feet for the project, upon

completion, is not more than 5 percent net above the statewide average number of square feet per licensed bed in services or departments of comparably sized facilities approved in California during the previous two years pursuant to Chapter 1 (commencing with Section 15000) of Division 12.5 unless the applicant demonstrates to the satisfaction of the director special requirements for additional space

(2) Financial resources exist to successfully complete and implement the project, and the financing will not result in an undesirable increase in patient charges in the facility.

(3) The project promotes fiscal economies through measures that assure efficiency and effectiveness, which may include the operation of joint cooperative or shared facility health resources and maximum utilization of facilities

(4) Less costly alternatives for the project were evaluated by the applicant and found not to be as desirable as the proposed project.

(5) The cost of equipment and construction is within reasonable limits and range for the area, type of project, and projected operational cost

(6) The size of the project is based on historical or reasonably projected utilization of the service, equipment, or facility.

The state department shall adopt regulations further defining the specifics of the criteria set forth in this subdivision

(d) In reviewing a proposal for a certificate of exemption for remodeling a health facility or for the replacement of equipment or services of a health facility which is not eligible for a certificate of exemption because of paragraph (8) of subdivision (a), or for remodeling or replacing a basic emergency center or its equipment which is not eligible for a certificate of exemption because of paragraph (6) of subdivision (a), when the health facility has been purchased for the purpose of providing services to existing members and reasonably anticipated members of a comprehensive group practice prepayment health care service plan, the medical services, of which, are provided by at least 200 physicians in group practice, who provide at least 75 percent of the medical services they deliver to members of the comprehensive group health care service plan, and which is licensed under the Knox-Keene Health Care Service Act of 1975 (Chapter 2 2 (commencing with Section 1340) of Division 2) and qualified as a health maintenance organization under Title XIII of the federal Public Health Service Act (42 U.S C , Sec 300e et seq), the state department, after a public hearing thereon, shall grant a certificate of exemption if the applicant. (1) demonstrates that the project is necessary to meet the needs of such members, (2) meets the criteria in paragraphs (1) to (6), inclusive, of subdivision (c); (3) does not violate paragraphs (1) to (7), inclusive, of subdivision (a), except that remodeling or replacing a basic emergency center shall not be considered a violation of paragraph (6) of subdivision (a) for such purpose; (4) submits a letter of intent to undertake the proposed project within two years of the date of

purchase of the facility; and (5) records in the office of the county recorder of the county in which the health facility is located a written agreement not to sell, lease, or rent the facility for five years without the permission of the state department, and which shall particularly describe the real property subject to the agreement and be indexed in the grantor index to all record owners of the real property and to the grantee index to the state department. The failure to so record such an agreement gives any person who becomes a purchaser, lessee, or renter of the facility during the term of the agreement the right of rescission or damages for one year from the date of discovery of the failure to record

(e) For all purposes, including those specified in Section 14105.5 of the Welfare and Institutions Code and in Section 1268 of this code, it shall be deemed that a certificate of need has been issued for any proposal issued a certificate of exemption under this section.

Health facilities desiring an exemption under this section shall, pursuant to regulations of the state department, submit an application and plans to the state department. The state department shall inform the applicant in writing of its determination as to eligibility of the applicant's proposal for such exemption within 60 calendar days of receipt of the application. If the state department determines that the proposal is not eligible for such exemption, the applicant may reapply for a certificate of need as provided in Section 438 or seek judicial review

This section shall remain in effect only until July 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1986, deletes or extends such date.

CHAPTER 786

An act to amend Sections 21026 and 21363 of the Government Code, relating to the Public Employees' Retirement System

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 21026 of the Government Code is amended to read

21026. If a member is entitled to a different disability retirement allowance according to whether the disability is industrial or nonindustrial and the member claims that the disability as found by the board, or in the case of a local safety member by the governing body of his employer, is industrial and such claim is disputed by the board, or in case of a local safety member by such governing body, the Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall determine

whether such disability is industrial.

The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against the system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

SEC. 2. Section 21363 of the Government Code is amended to read:

21363. The special death benefit is payable if the deceased was a patrol, state safety, state industrial or local safety member, if his death was industrial and if there is a survivor who qualifies under subdivision (b) of Section 21364. The Workers' Compensation Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of a member was industrial.

The jurisdiction of the Workers' Compensation Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the Workers' Compensation Appeals Board to award costs against the system pursuant to Section 4600, 5811, or any other provision of the Labor Code

---

CHAPTER 787

An act to amend Section 22717 of, to add Sections 22704, 22900, 22901, 22902, 22903, 22904, 22905, 22906, 22907, 22908, and 22909 to, and to repeal Sections 22603.2, 22603.3, 22701, 22704, 22705.5, 22706, 22707, 22712, 22713, 22714, 22715, 22716, 22718, 22725.1, 22726, 22727, 22728, 22802, 22803, 22900, 22901, 22902, 22903, and 22904 of, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 22603.2 of the Education Code is repealed.

SEC. 2 Section 22603.3 of the Education Code is repealed.

SEC. 3. Section 22701 of the Education Code is repealed.

SEC 4. Section 22704 of the Education Code is repealed.

SEC. 5. Section 22704 is added to the Education Code, to read:

22704. Service shall be credited, upon payment of the contributions required under Sections 22804 and 23400, for that time during which a member is excused from performance of duties and for which the member receives workers' compensation, or compensation from an insurance carrier of the employer, due to injury or illness which arose out of and in the course of the member's

employment. Service for such time shall be credited in the proportion that the compensation paid to the member bears to the compensation earnable by the member The amount of creditable compensation paid to the member shall not exceed the compensation earnable by the member during the period of such absence.

SEC. 6. Section 22705.5 of the Education Code is repealed.

SEC. 7. Section 22706 of the Education Code is repealed.

SEC 8 Section 22707 of the Education Code is repealed.

SEC. 9. Section 22712 of the Education Code is repealed.

SEC. 10. Section 22713 of the Education Code is repealed

SEC. 11 Section 22714 of the Education Code is repealed.

SEC. 12. Section 22715 of the Education Code is repealed.

SEC. 13. Section 22716 of the Education Code is repealed

SEC. 14. Section 22717 of the Education Code is amended to read:

22717. Except as otherwise specifically provided in this part no member shall receive credit for service performed outside this state.

SEC. 15. Section 22718 of the Education Code is repealed.

SEC. 16. Section 22725 1 of the Education Code is repealed.

SEC. 17. Section 22726 of the Education Code is repealed

SEC 18. Section 22727 of the Education Code is repealed.

SEC. 19. Section 22728 of the Education Code is repealed.

SEC 20 Section 22802 of the Education Code is repealed.

SEC 21 Section 22803 of the Education Code is repealed.

SEC. 22. Section 22900 of the Education Code is repealed.

SEC. 23. Section 22900 is added to the Education Code, to read:

22900. Claims for creditable service shall be corroborated by a statement from the superintendent of schools or custodian of records of the employing agency or public school where the service was performed.

Claims for creditable service performed outside the United States or in federal schools within the United States shall be corroborated by a statement from the custodian of records.

When the official records of the service have been destroyed, the claim may be corroborated by one or more affidavits of knowledge of the service, preferably by persons who served with the member at the time the service was performed.

SEC. 24. Section 22901 of the Education Code is repealed.

SEC. 25 Section 22901 is added to the Education Code, to read·

22901. A member who elects to receive additional service credit as provided in this chapter shall pay, prior to retirement or receipt of a disability allowance, all member and employer contributions with respect to such service at the rates in effect under Sections 22804 and 23400 at time of election and any additional contributions that may be necessary to insure that the total amount received by the system shall not be less than the actuarial normal cost rate of the system for such service as determined by the board.

If the member is currently employed in a position requiring membership in this system, the contributions shall be based upon the

compensation earnable in the current school year or either of the two immediately preceding school years, whichever is highest.

If the member is not currently employed in a position requiring membership in this system, the contributions shall be based upon the compensation earnable in the last school year of credited service or either of the two immediately preceding school years, whichever is highest Regular interest shall be charged on all contributions from the end of the school year on which the contributions were based to the date of payment.

The employer may pay the amount required as employer contributions for additional service credited under subdivisions (b), (f), and (g) of Section 22902.

Regular interest shall be charged on the monthly unpaid balance if the member pays in installments.

SEC. 26. Section 22902 of the Education Code is repealed.

SEC. 27. Section 22902 is added to the Education Code, to read:

22902 A member may elect to receive credit for:

(a) Service performed in a teaching position in a publicly supported and administered university or college in this state.

(b) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state

(c) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted

(d) Service performed in a certificated teaching position in a federally supported and administered Indian school in this state.

(e) Time served, not to exceed two years, in a certificated teaching position in a job corps center administered by the United States government in this state if the member was employed in a position requiring membership in this system within one year prior to entering such service and returned to a position requiring membership in this system within six months following the date of termination of service in the job corps.

(f) Time spent on a sabbatical leave after July 1, 1956.

(g) Time spent on an approved leave to participate in any program under the federal Mutual Educational and Cultural Exchange Program.

In no event shall the member receive credit for such service or time if the member has received or is eligible to receive credit for the same service or time in another retirement system.

SEC. 28. Section 22903 of the Education Code is repealed

SEC 29 Section 22903 is added to the Education Code, to read:

22903. A member who was previously excluded from membership in this system may elect to receive credit for:

(a) Substitute service excluded under Section 22602.

(b) Part-time service excluded under Section 22603.

(c) Adult education service excluded under Section 22604

(d) Service as a school nurse excluded under Section 22606.

(e) Service performed in a position prior to the date the position was made eligible for membership in this system.

(f) Service performed in a position requiring membership in this system while a member of another California public retirement system, provided the member has ceased to be a member of, and has ceased to be entitled to benefits from, the other retirement system. The member shall not receive credit for such service if the member may redeposit withdrawn contributions and subsequently be eligible for any benefits based upon the same service or based upon other full-time service performed during the same period, from another California public retirement system. A member who elects to receive credit for service performed while excluded from membership shall pay for all such service

SEC. 30. Section 22904 of the Education Code is repealed.

SEC 31. Section 22904 is added to the Education Code, to read:

22904. Any member, who was a member of this system on June 30, 1944 may elect to receive credit for the following service performed prior to July 1, 1944 in other states, territories, or possessions of the United States, or in Canada:

(a) Service in a teaching position which in this state would require membership in this system.

(b) Service in a teaching position in a publicly supported and administered university or college.

(c) Service in a teaching position with the Civilian Conservation Corps or in an Indian school supported and administered by the United States government.

(d) Service in a publicly supported residential school for the deaf or the blind.

In no event shall the member receive credit for such service if the member has received or is eligible to receive credit for the same service in another retirement system.

SEC. 32. Section 22905 is added to the Education Code, to read:

22905. A member may elect to receive credit for teaching service performed within and outside of this state in a war relocation center administered by the Wartime Civil Control Administration if all of the following conditions exist.

(a) By reason of the member's Japanese ancestry the member was placed in a war relocation center prior to entering membership in this system.

(b) The member received compensation for service in a teaching capacity in the relocation center.

(c) The member possessed a valid California teaching credential issued by the State Department of Education or had a bachelor's degree in education from a California postsecondary institution.

SEC. 33 Section 22906 is added to the Education Code, to read:

22906 For the purposes of this chapter, war with a foreign power exists

(a) Whenever Congress has declared war and peace has not been formally restored;

(b) Whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared; or

(c) Whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security

SEC. 34. Section 22907 is added to the Education Code, to read:

22907 A member may elect to receive credit for time served in the active military service of the United States or of this state, including active service in any uniformed auxiliary to any branch of such military service authorized as such auxiliary by the United States Congress or the California State Legislature, or in the full-time paid service of the American Red Cross prior to September 1957, provided:

(a) The time served was during war with any foreign power or during other national emergency, or in time of peace if the member was drafted for such service by the United States government, and

(b) The member was employed in a position requiring membership in this system within one year prior to entering such service. Time included under this section shall be considered as served in the state in which the member was last employed before entering such service.

Time during which the member is absent without compensation for other cause, on leave or otherwise, shall not be included.

SEC. 35. Section 22908 is added to the Education Code, to read:

22908. A member who voluntarily requests or agrees to an extension of his original term of enlistment, service, or tour of duty shall not receive credit for time served during such an extension of military service after December 31, 1958.

In no event shall a member receive credit for more than four years of military service performed after June 30, 1968.

SEC 36. Section 22909 is added to the Education Code, to read:

22909. A member shall not be required to pay contributions to receive credit for service under Section 22907 if:

(a) Such service was performed after September 15, 1940, and the member returned to a position requiring membership in this system prior to March 19, 1948; or

(b) Such service was performed prior to January 1, 1950, and the member was continuously performing such service prior to that date and returned to a position requiring membership in this system within six months following the termination of such service; or

(c) Such service was performed prior to September 14, 1978, and the member entered such service after December 31, 1949, and returned to a position requiring membership in this system within six months following the termination of such service

SEC 37. The provisions of this act shall not be applicable to persons who are members of the State Teachers' Retirement System

on December 31, 1979, until on and after July 1, 1980. It shall be applicable to persons who become members on and after January 1, 1980, on the effective date of their membership.

CHAPTER 788

An act to amend Sections 3054, 3057.5, 3070, 3097, 3102, 3103, and 3125 of the Business and Professions Code, relating to optometry

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 3054 of the Business and Professions Code is amended to read.

3054 No applicant shall be passed by the board who fails to obtain a grade of 75 percent, as determined by the board, in every section or test of the examination in which he is required to be examined as provided in this chapter and in rules and regulations promulgated by the board In case any applicant fails to pass any examination, he shall be examined in the next or any succeeding examination held during the next five years only in any sections or tests in which he failed to obtain a grade of 75 percent.

SEC. 2 Section 3057.5 of the Business and Professions Code is amended to read:

3057 5 Notwithstanding any other provision of this chapter, the board shall permit a person who meets all of the following requirements to take the examination for a certificate of registration as an optometrist·

(a) Is over the age of 18 years.

(b) Is not subject to denial of a certificate under Section 480.

(c) Has a degree as a doctor of optometry issued by a university located outside of the United States.

Nothing contained in this section shall be construed to prohibit the board from refusing to permit a person meeting the above requirements to take such examination if, in the opinion of the board, the course of instruction at the institution issuing him the degree of doctor of optometry was not reasonably equivalent to that required of applicants for the examination who have graduated from a college or university located in the United States

SEC 3 Section 3070 of the Business and Professions Code is amended to read:

3070 Before engaging in the practice of optometry, each registered optometrist shall notify the board in writing of the address or addresses where he is to engage, or intends to engage, in the practice of optometry and, also, of any changes in his place of practice The practice of optometry is the performing or the

controlling of any of the acts set forth in Section 3041 Any notice required to be given by the board to any registered optometrist may be given by United States mail to this address, postage thereon prepaid.

SEC. 4. Section 3097 of the Business and Professions Code is amended to read

3097. When the holder is suffering from a contagious or infectious disease, it constitutes a cause to suspend his certificate of registration during the period of continuance of such disease.

SEC. 5. Section 3102 of the Business and Professions Code is amended to read:

3102. The employing, directly or indirectly, of any suspended or unlicensed optometrist to perform any work for which a certificate of registration is required constitutes unprofessional conduct.

SEC. 6. Section 3103 of the Business and Professions Code is amended to read·

3103. Directly or indirectly accepting employment to practice optometry from any person not having a valid, unrevoked certificate of registration as an optometrist or from any company or corporation constitutes unprofessional conduct. Except as provided in this chapter, no optometrist may, singly or jointly with others, be incorporated or become incorporated when the purpose or a purpose of the corporation is to practice optometry or to conduct the practice of optometry.

The terms "accepting employment to practice optometry" as used in this section shall not be construed so as to prevent a licensed optometrist from practicing optometry upon an individual patient.

Notwithstanding the provisions of this section or the provisions of any other law, a licensed optometrist may be employed to practice optometry by a physician and surgeon who holds a certificate under this division and who practices in the specialty of ophthalmology or by a health care service plan pursuant to the provisions of Chapter 2 2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

. SEC 7. Section 3125 of the Business and Professions Code is amended to read:

3125 It is unlawful to practice optometry under a false or assumed name. However, the board may issue written permits authorizing an individual optometrist or an optometric group or optometric corporation to use a name specified in the permit in connection with its practice if, and only if, the board finds to its satisfaction that:

(a) The place or establishment, or the portion thereof, in which the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at such place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants; provided, however, that where the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1203 of the

Health and Safety Code, this subdivision shall not apply.

(b) The name under which the applicant or applicants propose to operate is in the judgment of the board not deceptive or inimical to enabling a rational choice for the consumer public and contains at least one of the following designations: "optometry" or "optometric", provided, however, that where the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1203 of the Health and Safety Code, and is subject to the name limitations of Title 17, California Administrative Code, Section 161, this subdivision shall not apply. In no case shall the name under which the applicant or applicants propose to operate contain the name or names of any of the optometrists practicing in the community clinic.

(c) The names of all optometrists practicing at the location designated in the application are displayed in a conspicuous place for the public to see, not only on such location, but also in any advertising permitted by law.

(d) No charges which could result in revocation or suspension of his certificate to practice optometry are pending against any optometrist practicing at such location.

Permits issued under this section by the Board of Optometry shall expire and become invalid unless renewed at the times and in the manner provided in Article 7 (commencing with Section 3145) for the renewal of certificates issued under this chapter. The board may charge an annual fee, not to exceed ten dollars ($10) for the issuance or renewal of each such permit.

Any permit issued under this section may be revoked or suspended at any time that the board finds that any one of the requirements for original issuance of a permit, other than under subdivision (d), is no longer being fulfilled by the individual optometrist, optometric corporation, or optometric group to whom the permit was issued. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

In the event the board revokes or suspends the certificate to practice optometry of an individual optometrist or any member of a corporation or group to whom a permit has been issued under this section, such revocation or suspension shall also constitute revocation or suspension, as the case may be, of such permit.

SEC. 8. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code

CHAPTER 789

An act to amend Section 1 of Chapter 145 of the Statutes of 1978, relating to domestic water supply systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979]

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

SECTION 1. A grant not to exceed the amount of one hundred seventy-four thousand dollars ($174,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the San Lucas County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall 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. 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 Richgrove Community Services District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards The Department of Water Resources shall 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. 3 The Legislature hereby finds and declares that in order to meet the minimum safe drinking water standards there is a critical need within the San Lucas County Water District and within the Richgrove Community Services District to immediately undertake certain improvements necessary to enable the residents of such districts to have a dependable and potable water supply.

SEC 4 The Legislature further finds and declares that the water systems of the San Lucas County Water District and the Richgrove Community Services District have critical deficiencies which pose a serious threat to the public health and welfare of all consumers within such districts and that each district is only barely meeting the demand for water within the district

SEC. 5 Section 1 of Chapter 145 of the Statutes of 1978 is amended to read.

Section 1 A grant not to exceed the amount of two hundred thirty-five thousand dollars ($235,000) is hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of

Section 13861 of the Water Code to the Rand Communities County Water District for the purpose of improving its domestic water supply system to meet, at a minimum, safe drinking water standards. The Department of Water Resources shall verify that all expenditures under this act are necessary and appropriate

SEC. 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 authorize grants from the California Safe Drinking Water Fund to the San Lucas County Water District, the Richgrove Community Services District, and the Rand Communities County Water District to resolve the critical water supply problems of such districts at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 790

An act to amend Section 1775.5 of, and to add Sections 1775.1, 1775.2, 1775.3, and 1775.4 to, the Insurance Code, relating to surplus line broker taxes.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 1775.1 is added to the Insurance Code, to read:

1775.1. (a) For the calendar year 1980, and each calendar year thereafter, every surplus line broker whose annual tax for the preceding calendar year was five thousand dollars ($5,000) or more shall make quarterly installment payments on account of the annual tax on business done during the current calendar year imposed by Section 1775.5.

(b) Notwithstanding any other provision, the commissioner may relieve a surplus line broker of his obligation to make quarterly payments where the broker establishes to the satisfaction of the commissioner that either the broker has ceased to transact business in this state, or his annual tax for the current year will be less than five thousand dollars ($5,000).

SEC 2. Section 1775.2 is added to the Insurance Code, to read:

1775.2. On or before May 1st of each year, the commissioner shall notify by mail each surplus line broker whose annual tax for the preceding calendar year was five thousand dollars ($5,000) or more, that the broker is required to make quarterly installment payments, on a quarterly basis as set forth in Section 1775.3, of the tax on account of business done during the current calendar year. With the notice

the commissioner shall mail the installment payment forms prescribed by the commissioner to be used by the broker to accompany remittances of the required quarterly installment payments. A failure to give or to receive a notice or to send or receive installment payment forms shall not relieve any broker of responsibility to make quarterly installment payments.

SEC 3 Section 1775.3 is added to the Insurance Code, to read:

1775.3 Each surplus line broker required to make quarterly installment payments shall remit them on or before each of the dates of June 1st, September 1st, and December 1st for the calendar quarters ending March 31st, June 30th, and September 30th, respectively, of the current calendar year. Remittances for such payments shall be made payable to the Insurance Commissioner and shall be delivered to the Office of the Commissioner, accompanied by an installment payment form prescribed by the commissioner.

SEC. 4. Section 1775 4 is added to the Insurance Code, to read·

1775.4 (a) The amount of the payment shall be 3 percent of the gross premiums upon business done by the surplus line broker under the authority of his license during the calendar quarter ending two calendar months immediately preceding the due date of the payment, as specified in Section 1775.3, less return premiums paid by him in that calendar quarter, excluding gross premiums and return premiums paid by him upon business governed by the provisions of Section 1760 5 If during any calendar quarter such return premiums paid by a surplus line broker exceed the gross premiums upon such business done by him in that calendar quarter, then no such payment shall be payable by him in respect to such calendar quarter, and he may carry forward such excess to the next succeeding calendar quarter or quarters and apply it in reduction of the taxable premiums on business done by him in such succeeding calendar quarter or quarters Even though no payment shall be payable by the broker, he shall file a return showing that his return premiums exceeded his gross premiums

(b) In determining the applicability of subdivision (a) of Section 1775 1 to a surplus line broker who has acquired the business of another surplus line broker, the amount of tax liability of the acquired broker for the immediately preceding calendar year shall be added to the amount of the tax liability of the acquiring broker for the immediately preceding calendar year

(c) All amounts paid, other than penalties and interest, shall be allowed as a credit on the annual tax imposed by Section 1775.5

(d) If the total amount of quarterly installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and be allowed as a credit or refund

SEC 5 Section 1775 5 of the Insurance Code is amended to read:

1775 5 Every surplus line broker shall annually, on or before the first day of April of each year pay to the Insurance Commissioner for the use of the State of California a tax of 3 percent of the gross

premiums upon business done by him under authority of his license during the preceding calendar year, less 3 percent of return premiums paid by him in that year by reason of cancellation or reduction of premium, excluding gross premiums paid and return premiums paid by him upon business governed by the provisions of Section 1760 5. If during any calendar year 3 percent of such return premiums paid by a surplus line broker exceed 3 percent of the gross premiums upon such business done by him in that year, then he may either carry forward such excess to the next succeeding year and apply it as a credit against 3 percent of gross premiums on such business done by him in such succeeding year, or he may elect to receive, and thereupon be paid a refund equal to the amount of taxes theretofore paid by him on such excess of return premiums paid over gross premiums received.

For the purpose of determining such tax, the total premium charged for all such nonadmitted insurance placed in a single transaction with one underwriter or group of underwriters, whether in one or more policies, shall be allocated to this state in such proportion as the total premium on the insured properties or operations in this state, as computed on the exposure in this state on the basis of any single standard rating method in use in all states or countries where such insurance applies, bears to the total premium so computed in all states or countries in which such nonadmitted insurance may apply This provision shall not apply to interstate motor transit operations conducted between this and other states. With respect to such operations surplus line tax shall be payable on the entire premium charged on all nonadmitted insurance, less

A. Such portion of the premium as is determined, as herein provided, to have been charged for operations in other states taxing such premium on operations in such states of an insured maintaining its headquarters office in this state;

B. The premium for any operations outside of this state of an insured who maintains a headquarters operating office outside of this state and a branch office in this state.

A penalty of 10 percent of the amount of the payment due shall be levied upon and paid by any surplus line broker who fails to make any payment within the time required, plus interest at the rate of 1 percent per calendar month or fraction thereof, from the due date of the payment until the date of the payment, but not for any period after the due date of the annual tax The commissioner may remit the penalty in a case where the commissioner finds, as a result of examination or otherwise, that the failure of or delay in payment arose out of excusable mistake or excusable inadvertence.

For any part of a payment which was not made within the time required by law, when such nonpayment or late payment was due to fraud on the part of the broker, a penalty of 25 percent of the amount unpaid shall be added thereto, in addition to all other penalties otherwise imposed

CHAPTER 791

An act to amend Section 22655 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

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

SECTION 1. Section 22655 of the Vehicle Code is amended to read:

22655. (a) When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or private property for the purpose of inspection

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle.

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC 2 Section 22655 of the Vehicle Code is amended to read·

22655 (a) When any member of the California Highway Patrol,

or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830 2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public

SEC 3. Section 22655 of the Vehicle Code is amended to read

22655. (a) When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of

California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle.

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC. 4 Section 22655 of the Vehicle Code is amended to read:

22655 (a) When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or a

qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830 6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle.

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC 5. It is the intent of the Legislature that if this bill and Senate Bill 173 or Assembly Bill 1276, or both, are chaptered and become effective January 1, 1980, each of the bills amend Section 22655 of the Vehicle 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 173 are both chaptered and become effective January 1, 1980, both bills amend Section 22655 of the Vehicle Code, but Assembly Bill 1276 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 173, the amendments proposed by both bills shall be given effect and incorporated in Section 22655 in the form set forth in Section 3 of this act. Therefore, if this bill and Senate Bill 173 are both chaptered and become effective January 1, 1980, both bills amend Section 22655, this bill is chaptered after Senate Bill 173, and Assembly Bill 1276 is not chaptered or as chaptered does not amend that section, Section 3 of this act shall be operative and Sections 1, 2, and 4 of this act shall not become operative

(2) If this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both bills amend Section 22655 of the Vehicle Code, but Senate Bill 173 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 1276, the amendments proposed by both bills shall be given effect and incorporated in Section 22655 in the form set forth in Section 4 of this act Therefore, if this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both bills amend Section 22655, this bill is chaptered after Assembly

Bill 1276, and Senate Bill 173 is not chaptered or as chaptered does not amend that section, Section 4 shall be operative and Sections 1, 2, and 3 of this act shall not become operative.

(3) If this bill and Senate Bill 173 and Assembly Bill 1276 are all chaptered and become effective January 1, 1980, all three bills amend Section 22655 of the Vehicle Code, and this bill is chaptered after Senate Bill 173 and Assembly Bill 1276, the amendments proposed by all three bills shall be given effect and incorporated in Section 22655 in the form set forth in Section 2 of this act Therefore, if this bill and Senate Bill 173 and Assembly Bill 1276 are all chaptered and become effective January 1, 1980, all three bills amend Section 22655 of the Vehicle Code, and this bill is chaptered after Senate Bill 173 and Assembly Bill 1276, Section 2 of this act shall be operative and Sections 1, 3, and 4 of this act shall not become operative.

CHAPTER 792

An act relating to the Department of General Services.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. The Department of General Services shall provide to the Legislature by June 30, 1980, a plan for utilization of motor fuel containing at least a 5 percent blend of alcohol in at least 25 percent of the motor vehicles maintained by the department in their storage facilities. The plan shall consider all measures to keep evaporative emissions at a minimum. The State Energy Resources Conservation and Development Commission shall assist the department in developing the required plan

---

CHAPTER 793

An act to amend Section 6576 of, and to add Sections 6577 and 6578 to, the Fish and Game Code, and to repeal Sections 2, 3, and 4 of Chapter 398 of the Statutes of 1973, relating to fish

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 6576 of the Fish and Game Code is amended to read:

6576. The provisions of this article shall be applicable only to the

waters of Davenport Landing Creek which is contained in the County of Santa Cruz and located near the town of Davenport Landing Any activities conducted pursuant to this article are conducted as a pilot program for the release and capture of domestically reared anadromous fish

SEC 2. Section 6577 is added to the Fish and Game Code, to read:

6577 This article shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 3. Section 6578 is added to the Fish and Game Code, to read:

6578 The department shall from time to time require reports from a permittee operating pursuant to this act on such permittee's operations, and the department shall then make findings regarding such operations available to the commission.

SEC. 4 Section 2 of Chapter 398 of the Statutes of 1973 is repealed

SEC 5 Section 3 of Chapter 398 of the Statutes of 1973 is repealed

SEC 6. Section 4 of Chapter 398 of the Statutes of 1973 is repealed

---

CHAPTER 794

An act to amend Sections 25402 and 25402 1 of the Public Resources Code, relating to energy.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy·

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. Such standards shall be cost effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice The commission shall periodically update the standards and adopt such revisions as in its judgment it deems necessary. In prescribing standards for insulation, the commission shall take into consideration the standards developed pursuant to Chapter 11 (commencing with Section 19870) of Part 3 of Division 13 of the Health and Safety Code, which standards shall only be operative until the date one year after

the date that the commission adopts regulations for energy insulation for residential buildings pursuant to this subdivision. Six months after the commission adopts regulations pursuant to this subdivision, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section

(b) Prescribe by regulation, energy conservation design standards for new residential and new nonresidential buildings. Such standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floor space, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt such revisions as in its judgment it deems necessary A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section. The commission shall comply with the provisions of this subdivision before January 1, 1981

(c) By regulation, prescribe standards for minimum levels of operating efficiency, based on a reasonable use pattern, for all appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. Such minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. Such standards shall become effective no sooner than one year after the date of adoption or revision No new appliance manufactured on or after the effective date of such standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with such standards. One year after the effective date of such standards, no new appliance, regardless of the date of manufacture, may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with such standards Such standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500) of this division, unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division

13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of such chapter of the Health and Safety Code to the extent of such conflict.

SEC. 1 5 Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. Such standards shall be cost effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt such revisions as in its judgment it deems necessary. In prescribing standards for insulation, the commission shall take into consideration the standards developed pursuant to Chapter 11 (commencing with Section 19870) of Part 3 of Division 13 of the Health and Safety Code, which standards shall only be operative until the date one year after the date that the commission adopts regulations for energy insulation for residential buildings pursuant to this subdivision. Six months after the commission adopts regulations pursuant to this subdivision, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section which are in effect on the date an application for a building permit is filed

(b) Prescribe by regulation, energy conservation design standards for new residential and new nonresidential buildings. Such standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floor space, but may also include devices, systems, and techniques required to conserve energy The standards shall be cost effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt such revisions as in its judgment it deems necessary A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section The commission shall comply with the provisions of this subdivision before January 1, 1981

(c) By regulation, prescribe standards for minimum levels of operating efficiency, based on a reasonable use pattern, for all appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. Such minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate Such standards shall

become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of such standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with such standards. One year after the effective date of such standards, no new appliance, regardless of the date of manufacture, may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with such standards. Such standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500) of this division, unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11 5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of such chapter of the Health and Safety Code to the extent of such conflict.

SEC 2 Section 25402.1 of the Public Resources Code is amended to read

25402 1. In order to implement the requirements of subdivisions (a) and (b) of Section 25402, the commission shall do all of the following

(a) Develop a public domain computer program which will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The commission may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs. The commission shall comply with the provisions of this subdivision before January 1, 1981.

(b) Include a prescriptive method of complying with the standards including design aids such as a manual, sample calculations and model structural designs. The prescriptive program shall be based on the standards developed pursuant to Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as it existed prior to the effective date of this section

(c) Produce, no later than 180 days after adoption of the standards, an energy conservation manual for use by designers, builders, and contractors of nonresidential buildings. The manual shall be furnished upon request at a price sufficient to cover the costs of production and shall be distributed at no cost to all affected local agencies The manual shall contain, but not be limited to, the

following:

(1) The standards for energy conservation established by the commission

(2) Forms, charts, tables, and other data to assist designers and builders in meeting the standards.

(3) Design suggestions for meeting or exceeding the standards.

(4) Any other information which the commission finds will assist persons in conforming to the standards.

(5) Instructions for use of the computer program for calculating energy consumption in residential and nonresidential buildings The commission shall comply with the provisions of this paragraph before January 1, 1981

(6) The prescriptive method for use as an alternative to the computer program

(d) The commission shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The commission shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of such services

(e) The provisions of subdivisions (a) and (b) of Section 25402 and this section, and the rules and regulations of the commission adopted pursuant thereto, shall be enforced by the building department of every city, county, or city and county.

(1) No building permit for any residential or nonresidential building shall be issued by a local building department unless a review by the building department of the plans for the proposed residential or nonresidential building contains detailed energy system specifications and confirms that the building satisfies the minimum standards established pursuant to subdivision (a) or (b) of Section 25402 and this section applicable to such building.

(2) Where there is no such local building department the commission shall enforce the provisions of subdivisions (a) and (b) of Section 25402 and this section.

(3) If a local building department fails to enforce subdivisions (a) and (b) of Section 25402 and this section or any other provision of this chapter or standard adopted pursuant thereto the commission may provide such enforcement after furnishing 10 days' written notice to the local building department.

(4) A city, county, or city and county may by ordinance or resolution prescribe a schedule of fees sufficient to pay the costs

incurred in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The commission may establish a schedule of fees sufficient to pay the costs incurred by such enforcement.

(f) The provisions of subdivisions (a) and (b) of Section 25402 and this section shall apply only to new residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to those sections that are applicable to such buildings. Nothing in those sections shall prohibit either of the following:

(1) The enforcement of state or local energy conservation or energy insulation standards, adopted prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section with regard to residential and nonresidential buildings on which actual site preparation and construction have commenced prior to that date.

(2) The enforcement of city or county energy conservation or energy insulation standards, whenever adopted, with regard to residential and nonresidential buildings on which actual site preparation and construction have not commenced prior to the effective date of rules and regulations adopted pursuant to subdivisions (a) and (b) of Section 25402 and this section provided that the city or county files the basis of its determination that the standards are cost effective with the commission and the commission finds that such standards will require the diminution of energy consumption levels permitted by the rules and regulations adopted pursuant to those sections.

(g) The commission may exempt from the requirements of this section and of any regulations adopted pursuant thereto any proposed building for which compliance would be impossible without substantial delays and increases in cost of construction, if the commission finds that substantial funds have been expended in good faith on planning, designing, architecture or engineering prior to the date of adoption of such regulations

(h) Should a dispute arise between an applicant for a building permit and the building department regarding interpretation of Section 25402 or the regulations adopted pursuant thereto, either party may submit the dispute to the commission for resolution. The commission's determination of the matter shall be binding on the parties

(i) Nothing in Section 25130, 25131, or 25402, or in this section shall be construed to prevent enforcement of any regulation adopted pursuant to this chapter, or Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code as they existed prior to the effective date of this section

SEC 3. It is the intent of the Legislature, if this bill and Senate Bill 207 are both chaptered and become effective January 1, 1980, both bills amend Section 25402 of the Public Resources Code, and this bill is chaptered after Senate Bill 207, that the amendments to

Section 25402 proposed by both bills be given effect and incorporated in Section 25402 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 207 are both chaptered and become effective January 1, 1980, both amend Section 25402, and this bill is chaptered after Senate Bill 207, in which case Section 1 of this act shall not become operative.

CHAPTER 795

An act to amend Sections 4359 and 5102 of, and to add Sections 4458, 4516, 7020 and 7021 to, the Civil Code, to amend Sections 527, 527.6, and 529 of, and to add Chapter 4 (commencing with Section 540) to Title 7 of Part 2 of, the Code of Civil Procedure, to add Section 26833 5 to the Government Code, and to amend Section 1377 of, and to add Section 273.6 to, the Penal Code, relating to domestic relationships.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 4359 of the Civil Code is amended to read.

4359 (a) During the pendency of any proceeding under Title 2 (commencing with Section 4400) or Title 3 (commencing with Section 4500) of this part, upon application of either party in the manner provided by Section 527 of the Code of Civil Procedure, the Superior Court may issue ex parte orders (1) restraining any person from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life, and if such order is directed against a party, requiring him to notify the other party of any proposed extraordinary expenditures and to account to the court for all such extraordinary expenditures; (2) enjoining any party from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, or disturbing the peace of the other party, and, in the discretion of the court, upon a showing of good cause, other named family and household members; (3) excluding one party from the family dwelling or from the dwelling of the other, for such period of time and upon such conditions as the court may determine, regardless of which party holds legal or equitable title, or is the lessee of the dwelling, upon a showing that the party to be excluded has assaulted or threatens to assault the other party, and that physical or emotional harm would otherwise result to the other party or any person under the care, custody, or control of the other party, as provided in Section 5102; (4) determining the temporary custody of

any minor children of the marriage, and the right of a party to visit the minor children upon such conditions as the court may determine; (5) determining the temporary use, possession, and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the pendency of the order, and (6) enjoining a party from specified behavior which the court determines is necessary to effectuate orders under paragraph (2) or (3)

Any order issued pursuant to this section shall state on its face the date of expiration of the order.

The Judicial Council shall promulgate forms and instructions for applications for orders and orders granted pursuant to this section.

(b) The court shall order the party who obtained the order or the attorney for such party to deliver and the clerk to mail a copy of any order, or extension, modification or termination thereof, granted pursuant to subdivision (a), by the close of the business day on which such order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by such party or the attorney for such party, having jurisdiction over the residence of such party and such other locations where the court determines that acts of domestic violence against such party are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to subdivision (a) to any law enforcement officer responding to the scene of reported domestic violence.

(c) Any willful and knowing violation of any order granted pursuant to paragraph (2), (3) or (6) of subdivision (a) shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

SEC 2 Section 4458 is added to the Civil Code, to read:

4458 A judgment entered pursuant to this part may include any orders issued pursuant to paragraphs (2) and (6) of subdivision (a) of Section 4359 Any such judgment shall state on its face (1) which provisions of the judgment are such orders, and (2) the date of expiration of such orders, which shall be one year from the date of entry of judgment unless extended by the court after notice and hearing. Such judgments, or orders, or extensions thereof, shall be transmitted to law enforcement agencies in the manner provided by subdivision (b) of Section 4359. Any willful and knowing violation of any such order shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

SEC. 3. Section 4516 is added to the Civil Code, to read:

4516 A judgment entered pursuant to this part may include any orders issued pursuant to paragraphs (2) and (6) of subdivision (a) of Section 4359 Any such judgment shall state on its face (1) which provisions of the judgment are such orders, and (2) the date of expiration of such orders, which shall be one year from the date of entry of judgment unless extended by the court after notice and

hearing Such judgments, or orders, or extensions thereof, shall be transmitted to law enforcement agencies in the manner provided by subdivision (b) of Section 4359. Any willful and knowing violation of any such order shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

SEC. 4. Section 5102 of the Civil Code is amended to read:

5102. Neither husband nor wife has any interest in the separate property of the other, but neither can be excluded from the other's dwelling except as provided in Section 4359 or, in proceedings under Chapter 1 (commencing with Section 4400) or Chapter 2 (commencing with Section 4425) of Title 2 of this part, or under Chapter 1 (commencing with Section 4500) of Title 3 of this part, upon application of either party in the manner provided by Section 527 of the Code of Civil Procedure, the court may order the temporary exclusion of either party from the family dwelling or from the dwelling of the other upon a showing that the party to be excluded has assaulted or threatens to assault the other party, and that physical or emotional harm would otherwise result to the other party or any other person under the care, custody, or control of the other party, until the final determination of the proceeding.

SEC. 5. Section 7020 is added to the Civil Code, to read:

7020. (a) During the pendency of any proceeding under this part, upon application in the manner provided by Section 527 of the Code of Civil Procedure by the party who has care, custody, and control of the minor child, the superior court may issue ex parte orders (1) enjoining any party from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, or disturbing the peace of the other party or the minor child; (2) excluding one party from the dwelling of the party who has care, custody and control of such child upon showing that the party to be excluded has assaulted or threatens to assault such party or the minor child and that physical or emotional harm would otherwise result to such party or the minor child; and (3) enjoining a party from specified behavior which the court determines is necessary to effectuate orders under paragraph (1) or (2). In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause.

(b) The court may issue upon notice and a hearing any of the orders set forth in subdivision (a). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed 90 days, unless otherwise terminated by the court, extended by mutual consent of the parties or extended by further order of the court on the motion of any party. Any extension

by mutual consent of the parties shall not exceed one year

(c) Any order issued pursuant to subdivision (a) or (b) shall state on its face the date of expiration of the order

(d) The court shall order the party who obtained the order or the attorney for such party to deliver and the clerk to mail a copy of any order, or extension, modification or termination thereof, granted pursuant to subdivision (a) or (b), by the close of the business day on which such order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by such party or the attorney for such party, having jurisdiction over the residence of the party who has care, custody and control of the minor child and such other locations where the court determines that acts of domestic violence against such party and the minor child are likely to occur Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to subdivision (a) or (b) to any law enforcement officer responding to the scene of reported domestic violence.

(e) Any willful and knowing violation of any order granted pursuant to subdivision (a) or (b) shall be a misdemeanor punishable under Section 273 6 of the Penal Code.

SEC. 6 Section 7021 is added to the Civil Code, to read·

7021 A judgment entered under this part may include any orders issued pursuant to subdivision (a) or (b) of Section 7020 Any such judgment shall state on its face (1) which provisions of the judgment are such orders, and (2) the date of expiration of such orders, which shall be one year from the date of entry of judgment unless extended by the court after notice and hearing. Such judgments, or orders, or extensions thereof shall be transmitted to law enforcement agencies in the manner provided by subdivision (d) of Section 7020. Any willful and knowing violation of any such order shall be a misdemeanor punishable under Section 273 6 of the Penal Code

SEC. 7. Section 527 of the Code of Civil Procedure is amended to read

527. (a) An injunction may be granted at any time before judgment upon a verified complaint, or upon affidavits if the complaint in the one case, or the affidavits in the other, show satisfactorily that sufficient grounds exist therefor. A copy of the complaint or of the affidavits, upon which the injunction was granted, must, if not previously served, be served therewith

No preliminary injunction shall be granted without notice to the opposite party, nor shall any temporary restraining order be granted without notice to the opposite party, unless it shall appear from facts shown by affidavit or by the verified complaint that great or irreparable injury would result to the applicant before the matter can be heard on notice and, except when applying for an order under Section 546 or under Section 4357, 4359, or 7020 of the Civil Code, the applicant or the applicant's attorney certifies to the court under oath

(i) that within a reasonable time prior to the application he informed the opposing party or his attorney at what time and where the application would be made, (ii) that he in good faith attempted to inform the opposing party and his attorney but was unable to so inform the opposing party or his attorney, specifying the efforts made to contact them; or (iii) that for reasons specified he should not be required to so inform the opposing party or his attorney. In case a temporary restraining order shall be granted without notice, in the contingency above specified, the matter shall be made returnable on an order requiring cause to be shown why the injunction should not be granted, on the earliest day that the business of the court will admit of, but not later than 15 days or, if good cause appears to the court, 20 days from the date of such order. When the matter first comes up for hearing the party who obtained the temporary restraining order must be ready to proceed and must have served upon the opposite party at least two days prior to such hearing, a copy of the complaint and of all affidavits to be used in such application and a copy of his points and authorities in support of such application; if he be not ready, or if he shall fail to serve a copy of his complaint, affidavits and points and authorities, as herein required, the court shall dissolve the temporary restraining order. The defendant, however, shall be entitled, as of course, to one continuance for a reasonable period, if he desires it, to enable him to meet the application for the preliminary injunction. The defendant may, in response to such order to show cause, present affidavits relating to the granting of the preliminary injunction, and if such affidavits are served on the applicant at least two days prior to the hearing, the applicant shall not be entitled to any continuance on account thereof. On the day upon which such order is made returnable, such hearing shall take precedence of all other matters on the calendar of said day, except older matters of the same character, and matters to which special precedence may be given by law. When the cause is at issue it shall be set for trial at the earliest possible date and shall take precedence of all other cases, except older matters of the same character, and matters to which special precedence may be given by law.

(b) The court may, upon the filing of an affidavit by the plaintiff that the defendant could not be served on time, reissue any temporary restraining order previously issued pursuant to Section 546 and dissolved by the court for failure to serve the defendant. Any order reissued under this subdivision shall state on its face the date of expiration of the order. No fees shall be charged for the issuance of any order under this subdivision, unless such order had been dissolved three times previously.

SEC. 8. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order, and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys or harasses such person, and which serves no legitimate purpose The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with the provisions of subdivision (a) of Section 527 of the Code of Civil Procedure. A temporary restraining order may be granted with or without notice upon an affidavit which, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(d) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies or denies the alleged harassment At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting such harassment An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) Upon filing of a petition for an injunction under this section, the defendant be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition

(g) The court shall order the plaintiff or the attorney for the plaintiff to deliver and the clerk to mail a copy of each temporary restraining order or injunction or modification or termination thereof, granted under this section, by the close of the business day on which such order was granted, to such law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency may make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported

harassment.

(h) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(i) Any willful disobedience of any temporary restraining order or injunction granted under this section shall be a misdemeanor pursuant to Section 166 of the Penal Code.

(j) This section shall not apply to any action covered by Section 4359 or 7020 of the Civil Code, or by Chapter 4 (commencing with Section 540) of this title, or by Title 1.6C (commencing with Section 1788) of the Civil Code. Nothing in this section shall preclude a plaintiff's right to utilize other existing civil remedies.

(k) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 9. Section 529 of the Code of Civil Procedure is amended to read:

529. On granting an injunction, the court or judge must require, except when it is granted on the application of the people of the State, a county, a municipal corporation, either spouse against the other in a proceeding for legal separation or dissolution of marriage, or plaintiff in proceedings pursuant to Chapter 4 (commencing with Section 540) of this title, or plaintiff in proceedings pursuant to Section 7020 of the Civil Code, a written undertaking on the part of the applicant, with sufficient sureties, to the effect that he will pay to the party enjoined such damages, not exceeding an amount to be specified, as such party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled thereto. Within five days after the service of the injunction, the person enjoined may except to the sufficiency of the sureties, and unless within five days therafter, upon notice of not less than two days to the person enjoined, such sureties, or others in their place, justify before a judge of the court, or the clerk thereof, at a time and place designated in such notice, the order granting the injunction must be dissolved.

SEC. 10. Chapter 4 (commencing with Section 540) is added to Title 7 of Part 2 of the Code of Civil Procedure, to read

CHAPTER 4. PREVENTION OF DOMESTIC VIOLENCE

Article 1. General Provisions

540. The purposes of this chapter are to prevent the recurrence of acts of violence by a spouse or household member against another spouse or other family or household members and to provide for a separation of the persons involved in such domestic violence for a period of time sufficient to enable such persons to seek resolution of the causes of the violence

541. This chapter may be cited as the Domestic Violence

Prevention Act

542 As used in this chapter, the following words have the following meanings

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or another.

(b) "Domestic violence" is abuse perpetrated against a family or household member

(c) "Family or household member" means spouse, former spouse, parent, child, any other person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household and has sexual relations with another family or household member residing in the household, or who within the last six months regularly resided in the household during which time he or she had sexual relations with another family or household member presently residing in the household.

543 The Judicial Council shall promulgate forms and instructions for applications for orders and orders granted pursuant to this chapter.

Article 2. Protective Orders

545. A temporary restraining order may be granted with or without notice to restrain any person upon an affidavit which, to the satisfaction of the court, shows reasonable proof of a past act or acts of abuse for the purpose of preventing a recurrence of domestic violence and assuring a period of separation of the persons involved A temporary restraining order may be granted pursuant to this chapter to any family or household member who, prior to or at the time such order is granted, was actually residing with the person or persons at whom such order is directed The right to petition for relief shall not be denied because the plaintiff has vacated the household to avoid abuse, and in the case of a marital relationship, notwithstanding that a petition for legal separation, nullity of marriage or dissolution of marriage has not been filed. Such order may be granted in the manner provided in Section 527

546. The court may issue ex parte any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant any of the orders set forth in paragraphs (2), (3) and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of such child. In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be dissolved, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order

is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause

The court may issue an ex parte order pursuant to this article, excluding one party from a residence or dwelling only when the affidavit in support of an application for the order affirmatively shows facts sufficient for the court to ascertain that the plaintiff has a right under color of law to possession of the premises.

547. The court may issue upon notice and a hearing, any of the following orders:

(a) Any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant, any of the orders set forth in paragraphs (2), (3), (5) and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of such child.

(b) Where there exists a presumption that the defendant is the natural father of any minor child, pursuant to Section 7004 of the Civil Code, and the child is in the custody of the plaintiff, the court may order a party to pay any amount necessary for the support and maintenance of the child if such an order would otherwise be authorized in an action brought pursuant to Part 7 of Division 4 (commencing with Section 7000) of the Civil Code; provided, that any order pursuant to this subdivision shall be without prejudice in any such action.

(c) An order that restitution be paid to the family or household member for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care and temporary housing, incurred as a direct result of such abuse or any actual physical injuries sustained therefrom, or an order that restitution be paid by plaintiff for out-of-pocket expenses incurred by a party as a result of any order issued ex parte which is found by the court to have been issued upon facts shown at a noticed hearing to be insufficient to support the order;

(d) An order requiring any party to participate in counseling where the parties so stipulate and where it is shown that the parties intend to continue to reside in the same household or have continued to reside in the same household after previous instances of domestic violence;

(e) An order for the payment of attorneys' fees and costs of the prevailing party

548. Any restraining order granted after notice and a hearing pursuant to this chapter shall remain in effect, in the discretion of the court, not to exceed 90 days, unless otherwise terminated by the court, extended by mutual consent of the parties or extended by further order of the court on the motion of any party. Any extension by mutual consent of the parties shall not exceed one year.

549 The remedies provided in this chapter shall be in addition

to any other remedies, either civil or criminal, which may be available to plaintiff

Article 3. Registration and Enforcement of Orders

550 The court shall order the plaintiff or the attorney for the plaintiff to deliver and the county clerk to mail a copy of any order, or extension, modification or termination thereof granted pursuant to this chapter, by the close of the business day on which such order, extension, modification or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the plaintiff or the attorney for the plaintiff, having jurisdiction over the residence of the plaintiff and such other locations where the court determines that acts of domestic violence against the plaintiff are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to this chapter to any law enforcement officer responding to the scene of reported domestic violence.

551. Any willful and knowing violation of any order authorized in this chapter granted in accordance with the terms of paragraph (2), (3) or (6) of subdivision (a) of Section 4359 of the Civil Code shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

552. Any order issued pursuant to this chapter shall state on its face the date of expiration of the order and a notice in substantially the following form:

"NOTICE: These orders shall be enforced by all law enforcement officers in the State of California."

553. (a) The court may, in its discretion, appoint counsel or the district attorney to represent the plaintiff in any proceeding to enforce the terms of an order issued pursuant to this chapter in accordance with the terms of paragraph (2), (3) or (6) of subdivision (a) of Section 4359 of the Civil Code.

(b) In any proceeding in which private counsel or the district attorney was appointed by the court pursuant to subdivision (a), the court may order the defendant to pay reasonable attorneys' fees and costs incurred by the plaintiff, or to reimburse the county for costs incurred because of the representation of plaintiff in such proceeding by the district attorney.

SEC. 11. Section 26833.5 is added to the Government Code, to read:

26833 5 No fee shall be charged to an indigent plaintiff for certified copies of any order issued pursuant to Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure or Section 4359 or 7020 of the Civil Code.

SEC. 12. Section 273.6 is added to the Penal Code, to read:

273.6. Any willful and knowing violation of any of the following court orders, when obtained pursuant to Section 4359, 4458, 4516, 7020, or 7021 of the Civil Code, or Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure, shall be a misdemeanor punishable by a fine of not more than five hundred dollars ($500), or by imprisonment in the county jail for not more than 6 months or by both such fine and imprisonment.

(a) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, or disturbing the peace of the other party, or other named family and household members.

(b) An order excluding one party from the family dwelling or from the dwelling of the other.

(c) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders under subdivision (a) or (b)

SEC. 13. Section 1377 of the Penal Code is amended to read·

1377. When the person injured by an act constituting a misdemeanor has a remedy by a civil action, the offense may be compromised as provided in the next section, except when it is committed

1. By or upon an officer of justice, while in the execution of the duties of his office;

2 Riotously,

3. With an intent to commit a felony;

4 In violation of any court order as described in Section 273 6, unless the offense charged is the first such offense committed by the defendant against the family or household member under Section 273.6

SEC 14 The provisions of this act shall become operative on July 1, 1980.

SEC. 15. 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 796

An act to amend Sections 23804, 23900, 23902, 23918, 23919, and 24203 of, to add Sections 23913, 23921, 23922, and 23923 to, and to repeal Sections 23912, 23913, 23921, and 23922 of the Education Code, relating to the State Teachers' Retirement System

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 23804 of the Education Code is amended to read:

23804. If on the date of death the member had met the following conditions:

(a) Death occurred after June 30, 1972, and

(b) Had one or more years of credited service, and

(c) If the member had a refund of accumulated retirement contributions, at least one year of credited service had been performed subsequent to the most recent refund of accumulated retirement contributions, and

(d) If the member had been reinstated to membership under the provisions of Section 23913, at least one year of credited service had been performed subsequent to the date of reinstatement, and

(e) If there had been a break in service of more than one year, one-half year of credited service had been performed after the end of last break, and

(f) The provisions of Sections 23800 and 23801 have been met, or

(g) Lacking the above, was a disabilitant receiving a disability allowance based upon projected salary which began to accrue after June 30, 1972; a family allowance shall be paid subject to the provisions of this chapter and Section 24203 as follows:

(1) To the surviving spouse, having financial responsibility for at least one dependent child who qualifies under Section 22112 there shall be paid an amount, in monthly installments, equal to 40 percent of the deceased's final compensation, plus 10 percent of such final compensation for each child, up to a maximum of 90 percent of such final compensation. If there are children who are not in the care of the surviving spouse, the amount of the allowance in excess of 40 percent of the final compensation shall be divided equally among all children and is payable to the trustee of the estate of such children under age 18 or their guardian if no trustee is designated or to the children age 18 and over, or

(2) If there is no surviving spouse or the surviving spouse subsequently dies or remarries and there are children who qualify under Section 22112, there shall be paid to the trustee of the estate of surviving children under 18 as designated by the member, or the guardian of such children under age 18 if no trustee is designated, or to the child if over age 18, an amount payable in monthly installments equal to 10 percent of the deceased's final compensation, up to a maximum of 50 percent of such final compensation If there are more than five such children, they shall share equally in the maximum of 50 percent, or

(3) If there is no allowance being paid under paragraphs (1) or (2) the unremarried spouse age 60 or over shall receive a monthly

payment equal to the amount which would have been payable to such spouse based on projected service and projected salary, had the member continued service to age 60 and at that time elected option number 3 The allowance payable under this paragraph shall be increased by application of the benefit improvement factor for time which elapses between the date the member would have reached age 60 and the date the allowances commence to accrue under this paragraph. For the calculation of the benefit, it shall be considered that the member died on the June 30 following the actual date of death and the spouse reached age 60 on the June 30 prior to attainment of that age, but the allowance shall not begin to accrue until the spouse attains age 60.

(4) If there is no surviving spouse or children entitled to allowances under paragraphs (1), (2), or (3) at the time of the member's death, the dependent parent, age 60, or upon attainment of that age, shall receive an allowance based on projected service and projected earned salary equal to the amount which would have been paid if the member had retired at age 60 and elected option number 3. If there are two parents who qualify under this paragraph, the total benefit will be computed on the assumption that the youngest parent is the beneficiary, and the total shall be divided equally for so long as there are two such qualifying parents Otherwise, the total amount shall be payable to the one who qualifies.

The benefits payable under paragraphs (1) and (2) because of the death of a disabilitant shall be based on projected salary.

Allowances payable under this section are in lieu of the death benefit payable under paragraph (1) of subdivision (b) of Section 23800 irrespective of the beneficiary designated to receive that benefit, except that if there are no children who qualify for an allowance under Section 22112, a spouse or the dependent parent or parents may elect, prior to the receipt of the first payment under paragraph (3) or (4), to receive the accumulated contributions in a lump sum subject to a reduction for any payments made from the account for any prior qualified persons.

SEC. 2 Section 23900 of the Education Code is amended to read·

23900. A retirement allowance shall become effective upon any date designated by the member, provided:

(a) An application for retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement allowance, and

(b) The effective date is later than the last day of credited service for which salary is payable to the member, and

(c) The effective date is no earlier than the first day of the month in which the application is received by the system in Sacramento, and

(d) The effective date is no earlier than one year following the date on which the member was reinstated to membership under the provisions of Section 23913, or

(e) The effective date is no earlier than the date upon and

continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

SEC. 3 Section 23902 of the Education Code is amended to read:

23902. A member may apply for a disability allowance if he has five or more years of credited service provided that:

(a) At least four years were credited for actual service performed in a position requiring membership in the system. Credit received because of worker's compensation payments will be counted toward the four-year requirement.

(b) The last five years of credited service have been served in this state; and

(c) At least one year was credited for service performed subsequent to the date on which the member was reinstated to membership under the provisions of Section 23913; and

(d) At least one year was credited for service performed subsequent to the most recent refund of accumulated retirement contributions; and

(e) The member has not attained age 60 years, or has unused sick leave with sufficient days to have him receive salary on account of such sick leave to age 60 years.

Nothing in this section shall affect the right of a member to a disability allowance if the reason that the member has less than four years of actual service is due to an on-the-job injury or disease in a position requiring membership in the system.

SEC 4. Section 23912 of the Education Code is repealed.

SEC. 5. Section 23913 of the Education Code is repealed

SEC 6 Section 23913 is added to the Education Code, to read:

23913 Any retirant who is retired for service may be reinstated to membership by the board upon receipt of the retirant's written request to terminate the retirement allowance and reinstate to membership in the system

SEC 7 Section 23918 of the Education Code is amended to read:

23918. Any retirant who retired for service, whose last employment as a member of the system prior to such retirement was in the California State University and Colleges, may, without reinstatement from retirement or any loss or interruption of benefits under this part, serve as a member of the teaching staff or as an independent contractor of the California State University and Colleges for not more than 120 days or earn more than five thousand dollars ($5,000), whichever occurs first, unless the retirant has skills needed in performing specialized work of limited duration provided that such service does not exceed a total earnings of five thousand dollars ($5,000) in any one fiscal year and the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

SEC 8. Section 23919 of the Education Code is amended to read·

23919 Any retirant who is retired for service may be employed by a school district or other employing agency as an employee or as

an independent contractor, except as provided in Sections 45134 and 88033, for not more than 120 days or earn more than five thousand dollars ($5,000), whichever occurs first, unless the retirant has skills needed in performing specialized work of limited duration provided that such service does not exceed a total earnings of five thousand dollars ($5,000) in any one fiscal year and the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties. The employment does not operate to reinstate the retirant as a member of this system, or to terminate or suspend his retirement allowance, and no deduction shall be made from his salary as contributions to this system. The retirant may be reemployed only if able to pass a physical examination prescribed by the State Board of Education.

At the end of each month in which a retirant performed service for a school district or other employing agency, the employer or other authorized agency shall report to the system the retirant's name, social security number and salary regardless of the fund from which the payment was made.

A certificate from a physician or surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code showing that he has submitted to and passed a physical examination within the immediately preceding 12-month period and filed with the county superintendent, or, in the case of a retirant to be employed as a substitute in a position requiring certification qualifications at the California School for the Deaf or the California School for the Blind, filed with the State Department of Education, shall be conclusive evidence of his passing the physical examination required by this section.

SEC. 11. Section 23921 of the Education Code is repealed

SEC 12 Section 23921 is added to the Education Code, to read:

23921. Upon retaining the services of a retirant as an employee under the provisions of Section 23918 or 23919, the school district, community college district, county superintendent of schools, California State University or Colleges, or other employing agency shall·

(a) Advise the retirant of the earnings limitation set forth in Sections 23918 and 23919, and

(b) Maintain accurate records of the retirant's earnings and report those earnings monthly to the system and the retirant regardless of the method of payment or the fund from which the payments were made.

This section shall not be construed to make any school district, community college district, county superintendent of schools, the California State University and Colleges, or other employing agency liable for any amount paid to the retirant in excess of the earnings limitation under any circumstance, including the failure to inform the retirant that continuation of service would exceed such limitations

SEC 13. Section 23922 of the Education Code is repealed.

SEC 14. Section 23922 is added to the Education Code, to read.

23922 If a retirant receives payment in excess of the limitation set forth in Section 23918 or 23919, the allowance of the retirant shall be reduced by the amount of such excess.

SEC 15 Section 23923 of the Education Code is repealed.

SEC 16. 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

Any member reinstated to membership pursuant to Section 23913 is not eligible to file a preretirement election of an option until one year after the date of reinstatement.

CHAPTER 797

An act to amend Sections 1243, 1244, 1245, 1604, 1710, 4312, 4320, 8007, 8100, 14042, 15701, 15704, 15705, 15706, 15711, 15712, 15713, 15719, 15721, 15723, 15724, 15727, 15737, 15746, 15749, 16002, 16003, 16007, 16009, 16014, 16022, 16023, 16029, 16034, 16036, 16042, 16044, 16051, 16051 5, 16067, 16082, 16314, 16319, 16330.5, 16331, 16335, 16336, 66804, 71001, 71026, 71027, 71041, 71091, 71092, 72233, 72409, 72640, 74015, 76140, 76160, 76320, 76321, 78005, 78010, 78011, 78409, 78442, 78920, 79010, 79013, 81005, 81363, 81400, 81820, 81831, 81833, 84327, 84330, 84384, 84385, 85241, 85260, 87200, 87214, 87228, 87408, 87412, 87422, and 87768 of, to amend and renumber Section 85264 of, to add Sections 81800.1 and 81831.5 to, to repeal Sections 8035, 10405, 16055, 71029, 71030, 71031, 71032, 71035, 71036, 71037, 71043, 71065, 71067, 71074, 71077, 72293, 72305, 76310, 76332, 76342, 76442, 76455, 78220, 78221, 78270, 81004, 81101, 81102, 81145, 84032, 84321, 84323, 84326, 84333, 84341, 84503, 84532, 85261, 85262, 85263, 87216, 87270, 87294, 87332, 87425, 87433, 87434, 87710, and 87713 of, and to repeal Chapter 3 (commencing with Section 10200) of Part 7 of, Article 10 (commencing with Section 16380) of Chapter 8 of Part 10 of, Article 8 (commencing with Section 78310) of Chapter 2 of Part 48 of, Chapter 4 (commencing with Section 78600) of Part 48 of, Chapter 5 (commencing with Section 78700) of Part 48 of, Chapter 6 (commencing with Section 78800) of Part 48 of, Article 3 (commencing with Section 79140) of Chapter 9 of Part 48 of, Article 4 (commencing with Section 79150) of Chapter 9 of Part 48 of, Article 3 (commencing with Section 81050) of Chapter 1 of Part 49 of, Chapter 6 (commencing with Section 82100) of Part 49 of, Article 4 (commencing with Section 84560) of Chapter 4 of Part 50 of, Article 6 (commencing with Section 84781) of Chapter 5 of Part 50 of, Article 9 (commencing with Section 84810) of Chapter 5 of Part 50 of, Article 10 (commencing with Section 84830) of Chapter 5 of Part 50 of, Article 12 (commencing with Section 84860) of Chapter 5 of Part 50 of, and Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of, the Education Code, relating to community colleges.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. It is the intent of the Legislature in enacting this act to update and technically clarify provisions of law which establish powers and duties of the Board of Governors of the California Community Colleges and the Chancellor of the California Community Colleges. This act repeals numerous Education Code provisions relating to the board of governors and the chancellor's office which are outdated or redundant. It also repeals certain Education Code provisions which were mistakenly made applicable

to the community colleges when the Education Code was reorganized in 1976. Finally, it technically amends numerous provisions so as to clarify or make less burdensome various functions of the board of governors and chancellor's office. In so doing, it is the intent of the Legislature to streamline the statewide governance of community colleges, and thereby to promote the more efficient use of resources within the community college system.

SEC. 1 5. Section 1243 of the Education Code is amended to read:

1243. The county superintendent of schools shall make reports, when directed by the Superintendent of Public Instruction, showing such matters relating to the public schools in his county as may be required of him.

If he fails to make full and correct report as required under the provisions of this section at the time fixed by the Superintendent of Public Instruction, he shall forfeit one hundred dollars ($100) of his salary; and the county auditor whose duty it is to draw the warrant for the salary of the superintendent of schools shall deduct this amount from the warrant on receiving notice from the Superintendent of Public Instruction to the effect that the superintendent of schools has failed to make the report as directed.

SEC 2. Section 1244 of the Education Code is amended to read:

1244 Each county superintendent of schools shall annually, at such time as is required by the Superintendent of Public Instruction but not later than July 15th, submit to the Superintendent of Public Instruction a complete report of the attendance credited to the public schools of the county for the school year closing June 30th immediately preceding July 15th. Forms for the reports shall be furnished by the Superintendent of Public Instruction. Reports shall contain and be accompanied by such other information and reports relating to the computation of state apportionments as may be required by the Superintendent of Public Instruction.

SEC 3 Section 1245 of the Education Code is amended to read:

1245. Each county superintendent of schools shall submit such reports as may from time to time be required by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges. It shall be the duty of each school district and community college district to furnish to the county superintendent of schools any records, reports, documents, maps or other data pertaining to reports required by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges

SEC. 4 Section 1604 of the Education Code is amended to read:

1604 No moneys shall be expended from the county school service fund for any purpose in excess of the latest proposed expenditures for such purpose as approved by the Superintendent of Public Instruction under Section 14050, without the approval of the Superintendent of Public Instruction.

It shall be the duty of the county auditor to approve warrants drawn on the county school service fund for expenses approved in

the county school service fund budget; provided, however, in a county in which the board of supervisors has transferred educational functions to the county board of education pursuant to Section 1080, and a single budget has been authorized for the purposes of the county school service fund, county board of education, county committee on school district organization, and the office of the county superintendent of schools pursuant to Sections 1620 to 1625, inclusive, and the board of supervisors has made the provisions of Sections 42649 and 85265.5 applicable in the county, orders for warrants and warrants shall be signed by the county superintendent of schools and paid by the county treasurer without the approval of the county auditor

A listing of all warrants issued by the county superintendent of schools, where the approval of the county auditor is not required, shall be forwarded to the county auditor on the same day they are issued The form of the warrant and the form and content of the warrant listing shall be as approved by the county auditor. The county auditor shall not be liable upon his bond or otherwise for any warrant issued where his approval is not required.

SEC. 5 Section 1710 of the Education Code is amended to read

1710 No educational programs for physically handicapped, educable mentally retarded, trainable mentally retarded, regional occupational centers, or regional occupational programs already in operation in school districts or community college districts shall be transferred to the county superintendent of schools without the approval of the Superintendent of Public Instruction.

The Superintendent of Public Instruction shall approve such transfers only if he determines that it is in the best interest of the education and welfare of the pupils attending the program to be transferred

SEC 6 Section 4312 of the Education Code is amended to read:

4312 Upon petition by a county committee of school district organization of a county or of the county board of education of such county, the State Board of Education may order that the county board of education act as a county committee of school district organization pursuant to Section 4310. Within 90 days after receiving the petition, the State Board of Education shall approve or reject the petition, and issue an appropriate order thereon.

SEC 7. Section 4320 of the Education Code is amended to read·

4320 Each county committee shall study the school district organization of the county and shall, under the direction of the State Board of Education, formulate plans and recommendations for the unification or other reorganization of the districts in the county or any portion thereof including, if necessary, a portion of one or more adjacent counties The county committee may formulate plans and recommendations for the formation of a unified district comprising less than a high school district as an intermediate step to the unification of territory of the high school district, provided that all such plans and recommendations meet the requirements of Section

4200 It shall transmit the final plans and recommendations to the State Board of Education.

SEC 8 Section 8007 of the Education Code is amended to read:

8007. There is in the Department of Education and the Chancellor's Office 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 9 Section 8035 of the Education Code is repealed.

SEC 10 Section 8100 of the Education Code is amended to read:

8100 The Superintendent of Public Instruction shall approve courses of vocational training for the purposes of loans authorized by Section 7185 of the Financial Code.

SEC 11 Chapter 3 (commencing with Section 10200) of Part 7 of the Education Code is repealed

SEC 12 Section 10405 of the Education Code is repealed.

SEC 13 Section 14042 of the Education Code is amended to read:

14042 (a) If the Superintendent of Public Instruction or the chancellor does not certify to the Controller, on or before the 20th day of February, the amounts apportioned by him as the first principal apportionment, the Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county in the month of February, and in each month thereafter until the month following his receipt of such certification, for amounts equal to the warrants drawn for January.

(b) In the month following the receipt of the certification of the amounts apportioned by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges as the first principal apportionment, the Controller shall draw warrants on the State Treasury in favor of the county treasurer of each county in an amount equal to the difference between the amount of the warrants which would have been drawn pursuant to Section 14041 had the certification been received by the Controller not later than February 20th and the amount of the warrants drawn pursuant to subdivision (a) of this section

(c) Warrants drawn under this section shall be drawn on the State School Fund and are not subject to the provisions of Government Code Section 925 6

SEC 14 Section 15701 of the Education Code is amended to read:

15701 As used in this chapter

(a) "Board" means the State Allocation Board, created by Section 7 of the Construction and Employment Act as amended

(b) "Director" means the Director of Education for kindergarten and grades 1 to 12, inclusive

(c) "Project" means the purposes for which a school district has

applied for an apportionment under this chapter

(d) "Grade level maintained by a district" means (1) the kindergarten, if any, and grades 1 to 6, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district; or (2) grades 7 to 12, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district; and (3) grades 13 and 14 maintained by a high school district or unified school district, but not more than one grade level shall be claimed by any district under any one of the subdivisions of this paragraph.

(e) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires.

SEC. 15. Section 15704 of the Education Code is amended to read:

15704 The board by the adoption of rules shall give priority in allocating funds to districts to those districts where the children will benefit most from additional schoolhouse facilities This priority shall be based on acuteness of overcrowding, on sudden growth in attendance, on amount of local tax funds expended for housing of a character within the purposes of this chapter, and on the time the district's application has been ready for allotment. The board may make exceptions when it determines that it will be for the benefit of the children affected.

In adopting rules the board may provide for the granting of priority points to govern the allocation according to the following schedule·

(a) Two priority points may be granted for each percent of the latest computed average daily attendance of the district that is inadequately housed. The number of inadequately housed students is the latest computed average daily attendance of the district less the sum of (1) any classrooms up to a total of two, multiplied by 25, and (2) any classrooms in excess of two, multiplied by 33. The term "classrooms" (for the purposes of this computation) shall mean any school classrooms, temporary and permanent, determined by the Department of Education to be safely usable.

(b) One priority point may be granted for each 5 percent of the latest computed average daily attendance of the district that represents an increase over the average daily attendance for the fifth preceding school year.

(c) One point of priority may be granted for each one-twentieth of 1 percent of the assessed valuation of the district, collected in taxes and expended for school housing within the scope of this chapter since July 1, 1944 Expenditure of the proceeds of the sale of bonds shall not be counted but expenditure for interest and retirement of bonds shall be counted

(d) Not more than one point of priority shall be allowed for each calendar month that the completed application of the district has awaited funds

If any computation of priority points made under this section results in a fraction of a point, such fraction shall be disregarded and

the number of priority points shall be taken as the next lowest whole number.

These priorities shall be recomputed at least semiannually when funds are available for allocation, on the respective periods of time next preceding the date of computation. The State Department of Education shall assist and cooperate with the board in determining priority ratings.

SEC. 16. Section 15705 of the Education Code is amended to read:

15705. In addition to such other powers and duties as are granted the board by this chapter, the board shall (1) 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; (2) 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 director granted or imposed by this chapter, and (3) adopt such rules and regulations for the administration of this chapter, requiring such procedure, forms, and information, as it may deem necessary.

SEC 17. Section 15706 of the Education Code is amended to read:

15706. Apportionment from the Public School Building Loan 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. (a) the purchase and improvement of school sites which have been approved by the State Department of Education, (b) the purchase of desks, tables, chairs, and built-in or fixed equipment, as listed in Part III of the California School Accounting Manual contained in the Bulletin of the California State Department of Education, Volume XIII, No. 2, June, 1944, or as amended or revised; and (c) the planning and construction, reconstruction, alteration of, and addition to, school buildings for such facilities as are approved by the Department of Education as essential, all of which purposes are hereby declared to be, and are, public works

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 costs 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

SEC 18 Section 15711 of the Education Code is amended to read

15711. A school district shall not expend money apportioned under this chapter unless the contracts under which the funds are expended have been let after competitive bids thereafter pursuant

to this code.

SEC. 19. Section 15712 of the Education Code is amended to read:

15712 Funds apportioned to a school district under this chapter for a project, remaining unencumbered or unexpended one year from the date the application of the district for such apportionment was approved, shall not be encumbered or expended except as provided in this section.

The governing board of the district shall notify the board of its desire to encumber or expend such funds. The board shall immediately request the Department of Education to, and the department shall, review the project for which apportionment was made. If the Department of Education finds that the conditions existing at the time it approved the project for which the apportionment was made have so changed that the needs of the district are less than originally determined, it shall notify the board of its findings and of the respects in which the project should accordingly be modified. The board shall review the project and revise the project in such manner as it deems necessary, subject to the provisions of Section 15727, and make such changes in the purposes for which the apportionment may be expended as it deems necessary The cost of the project as revised by the board shall be computed in the manner prescribed by Section 15713 and the excess, if any, of the amount theretofore apportioned to the district over the computed cost of the revised project shall be deducted by the board from the apportionment made to the district. The board shall give notice of its action, in writing, to the State Controller, the governing board of the district, and the county auditor and the county treasurer having jurisdiction over the public school building fund of the district. If the amount of such excess, or any portion thereof, has not been paid to the district, such excess, or portion thereof, shall be made available for apportionment to other districts. If such excess, or portion thereof, has been paid to the district, it shall not be encumbered or expended by the district and shall become due and payable to the State of California. The governing board of the district and the county treasurer shall pay such amount to the State Treasurer, out of the funds, and in the manner specified in Section 15752. Such payment shall, on order of the State Controller, be deposited in the Public School Building Loan Fund in the State Treasury

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state

This section does not authorize the board to increase any apportionment made to a district.

SEC 20 Section 15713 of the Education Code is amended to read·

15713 Each school district which desires an apportionment for a grade level maintained by it, shall submit through its governing board to the board an application therefor in such form and number

of copies as the board shall prescribe Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire project for which the district desires an apportionment Estimates of cost for new construction appearing in an application shall not exceed typical current costs of comparable new construction by school districts in the same area not receiving or not eligible for apportionment under this chapter, as determined by the Director of General Services, or if there has been no new construction by districts in the area, the estimates of cost shall not exceed the reasonable current cost of similar construction in the area as determined by the Director of General Services Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the director and to the Director of General Services.

A district may at any time amend or supplement its application.

The Director of General Services shall determine the school district's financial ability to meet all or a portion of the cost of the project and the amount which the district can contribute toward the cost of the project out of its available funds, and shall submit his report thereon to the board

The directors shall as promptly as possible prepare a report and recommendation with respect to the application and refer the application, report, and recommendation to the Director of General Services, who shall, if he finds the documents to be in proper form and otherwise sufficient, refer them to the board. If the Director of General Services finds the documents to be lacking in any respect as to any matter which is subject to the jurisdiction or approval of the director or Department of Education, he shall refer them to the director who shall take such action as may be necessary. The board shall, subject to the provisions of this chapter approve or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the Public School Building Loan Fund the amount applied for, or such portion thereof as the board may deem appropriate; provided, that it may order that the apportionment or any part thereof shall be paid in progressive installments at such times and under such conditions as it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 15721 is favorable and if bonds are authorized and sold in the amounts prescribed by the board, and the proceeds of the bonds sold earmarked for the project as approved The conditional apportionment shall remain effective for a period of nine months from the date of the resolution of the board, and if it does not become a final apportionment by the date, it shall become void and the money so apportioned shall become again available for apportionment pursuant to this chapter

The board may for such good cause as it shall determine, reduce

the amount of, or modify any provisions relating to, any contribution required of a district under the terms of an apportionment, other than any contribution required of such district under Section 15721 from the sale of bonds; provided, that the board may not, without the consent of the district, increase the amount of any district contribution under the terms of an apportionment, in the absence of mistake arising from any source, or misrepresentation, concealment, or omission, on the part of the district, intentional or otherwise The provisions of this paragraph shall be applicable to apportionments heretofore or hereafter made.

SEC. 21. Section 15719 of the Education Code is amended to read:

15719 No apportionment shall be made for new construction which when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per pupil of the estimated enrollment in excess of that computed under the following schedule.

Type of school	*Enrollment*	*Square feet per pupil*
Elementary school comprising kindergarten and grades 1 to 6, inclusive	300 or more	55
Elementary school comprising grades 7 and 8	750 or more	75
Junior high school comprising grades 7 to 9, inclusive	750 or more	75
Junior high school comprising grades 7 to 10, inclusive	750 or more	75
High school comprising grades 7 to 12, inclusive	750 or more	80
High school comprising grades 9 to 12, inclusive	750 or more	80
High school comprising grades 10 to 12, inclusive	750 or more	80

The maximum total building areas per pupil allowed to applicants having schools with smaller estimated enrollments than shown in the above schedule shall be determined by the Department of Education, and shall be building areas to provide comparable facilities to those enumerated above, and shall be the least building area required to house adequately the estimated enrollment and the normal instructional and other services.

No estimate of enrollment made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the second fiscal year beyond the fiscal year in which an application is made, and in no case shall be given effect unless approved by the Department of Education.

SEC 22 Section 15721 of the Education Code is amended to read

15721. No apportionment to a school district shall become final unless: (a) the total amount of outstanding bonds of the district exceeds ninety-five percent (95%) of the maximum amount of bonds which the district could have had outstanding under any law on the date the conditional apportionment is made, or (b) if the total amount of the bonds of the district outstanding and unpaid is less than ninety-five percent (95%) of the amount of the bonds permitted to be issued by the district, the amount of district bonds outstanding is within twenty-five thousand dollars ($25,000) of the total bond limit permitted, as of the date on which the conditional apportionment is made. At the time the board makes a conditional apportionment pursuant to Section 15713, it shall determine what portion of the total amount of bonds which a district is permitted to issue and sell by law shall be issued and sold by such district, the proceeds of which shall be applied toward the cost of the project for which the apportionment is sought The portion so determined by the board shall be not less than the minimum amount required for such apportionment to become final under this section. Any apportionment made by the board pursuant to Section 15713 shall be conditioned upon the approval and sale of such bonds by the district.

No apportionment to a district shall become final unless, at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board of the district to accept, expend, and repay, as provided in this chapter, an apportionment under the provisions of this chapter Such election shall be combined with and held at the same time as the bond election to authorize the amount of bonds required by the board, if any, and shall be called, held, and conducted in the same manner as are elections to authorize the issuance of district bonds, except that the ballot, in addition to the bond proposition, shall contain substantially the following words:

"Shall the governing board of the _____ school district be authorized to accept and expend an apportionment in an amount not to exceed _____ dollars ($_____) from the State of California under and subject to the provisions of Chapter 6 (commencing with Section 15700) of Part 10 of Division 1 of Title 1 of the Education Code which amount is subject to repayment as provided by said chapter? Yes_____ No_____."

SEC 23 Section 15723 of the Education Code is amended to read:

15723 The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 15721 may be called and held either before or after the making of an apportionment.

All such elections held prior to October 13, 1950, whether before or after the making of an apportionment, are hereby validated and confirmed if otherwise called and held pursuant to law.

SEC 24 Section 15724 of the Education Code is amended to read.

15724 Whenever a conditional apportionment has been made, and the county auditor has inadvertently and erroneously included

in his certification of the outstanding bonded indebtedness of the school district the bonded indebtedness of another school district having the same, or substantially the same, boundaries, which bonded indebtedness is less than two percent (2%) of the total amount of the total bonded indebtedness certified, and thereafter an election upon the issuance of new bonds in the amount required by the board has been had and the vote thereon has been in favor of the issuance of the bonds, and the board has certified to the State Controller that the apportionment to the district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the Public School Building Loan Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

Any bonds erroneously certified, however, shall not be taken into consideration in making the computation required by Section 15721.

SEC 25 Section 15727 of the Education Code is amended to read:

15727 No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment or for any project or part thereof which has not been approved by the Department of Education

SEC. 26 Section 15737 of the Education Code is amended to read·

15737 (a) Upon request of the district, the Controller shall use in computing the "40-cent, 30-cent, and 10-cent tax amounts" under Section 15732 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of such total assessed valuation, with respect to which revenues of the district taxes levied in the 1954–1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240 If such a request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954–1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955–1956 fiscal year on the basis of such reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 15741 of such recomputed annual repayment for the 1955–1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to such district during the 1955–1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district, for the first fiscal year or second fiscal year next succeeding that in which

such notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 15735, 15741, and 15742 for the fiscal year in which such increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a), Section 15736 shall not apply with respect to any tax revenues to which subdivision (a) applies

SEC 27 Section 15746 of the Eduction Code is amended to read:

15746 The governing board of each school district to which an apportionment is made under this chapter is authorized to, and shall, transfer to the public school building fund of the district from all other funds of the district in which such moneys may be, all moneys of the district which under, or pursuant to, this chapter are required to be expended for the project for which such apportionment was made

SEC 28. Section 15749 of the Education Code is amended to read:

15749 The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the public school building fund of the district exactly as apportioned by the board and only for the purposes for which said moneys were apportioned to the district, and for no other purpose, and shall make such reports relating to the expenditure of such moneys as the board and the State Controller shall require.

SEC 29 Section 16002 of the Education Code is amended to read:

16002. As used in this chapter

(a) "Board" means the State Allocation Board, created by Section 7 of the Construction and Employment Act as amended

(b) "Director" means the Director of Education for kindergarten and grades 1 to 12, inclusive

(c) Notwithstanding any other provision of law, the term "project" shall be deemed to include any or all of the purposes for which a school district has applied for apportionments under this chapter, pursuant to such regulations as the State Allocation Board may adopt.

(d) "Grade level maintained by a district" means (1) the kindergarten, if any, and grades 1 to 6, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district, or (2) grades 7 to 12, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district, but not more than one grade level shall be claimed by any district under any one of the subdivisions of this paragraph.

(e) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires The term "apportionment" in Sections 16091, 16097, 16099, 16100, 16104, 16105,

and any other section in this chapter where the context justifies, shall be deemed to include funds of a school district required by the board to be contributed toward the purposes thereof. It is hereby declared that this construction is not intended as a change in the present law but rather as a declaration of existing law.

SEC. 30. Section 16003 of the Education Code is amended to read:

16003. With respect to applications filed on and after the effective date of this section by a unified district and any apportionments and repayments made under such applications, "grade level maintained by the district" means the kindergarten, if any, and grades 1 to 12, inclusive, maintained by the district.

A unified district if otherwise eligible, may apply for and receive an apportionment for either one or both of such grade levels.

This section shall not apply to a unified district during the first three years following the effective date of this section, or during the first three fiscal years in which the district is in existence for all purposes, if the governing board of the district transmits to the board a written notice stating the district desires to be exempted from this section during such period.

SEC. 31. Section 16007 of the Education Code is amended to read:

16007 The board by the adoption of rules shall give priority in allocating funds to districts to those districts where the children will benefit most from additional schoolhouse facilities. This priority shall be based on acuteness of overcrowding, on rapidity of growth in attendance, and on the time the district's application has been ready for allotment. The board may make exceptions when it determines that it will be for the benefit of the children affected.

The State Department of Education shall assist and cooperate with the board in determining priorities.

SEC. 32. 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 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. 33. 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; (b) the purchase of necessary desks, tables, chairs and other movable furniture and equipment, as approved by the Department of Education; 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 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 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.

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 34 Section 16022 of the Education Code is amended to read·

16022. Funds apportioned to a school district under Section 16024 for a project, remaining unencumbered or unexpended one year from the date the application of the district for such apportionment was approved, shall not be encumbered or expended except as provided in this section

The governing board of the district shall notify the board of its desire to encumber or expend such funds The board shall immediately request the Department of Education to, and the department shall, review the project for which apportionment was

made If the Department of Education finds that the conditions existing at the time it approved the project for which the apportionment was made have so changed that the needs of the district are less than originally determined, it shall notify the board of its findings and of the respects in which the project should accordingly be modified. The board shall review the project and revise the project in such manner as it deems necessary subject to the provisions of Section 16067, and make such changes in the purposes for which the apportionment may be expended as it deems necessary The cost of the project as revised by the board shall be computed in the manner prescribed by Section 16024 and the excess, if any, of the amount theretofore apportioned to the district over the computed cost of the revised project shall be deducted by the board from the apportionment made to the district. The board shall give notice of its action, in writing, to the State Controller, the governing board of the district, and the county auditor and the county treasurer having jurisdiction over the state school building fund of the district If the amount of such excess, or any portion thereof, has not been paid to the district, such excess, or portion thereof, shall be made available for apportionment to other districts, if such excess, or portion thereof, has been paid to the district, it shall not be encumbered or expended by the district and shall become due and payable to the State of California. The governing board of the district and the county treasurer shall pay such amount to the State Treasurer, out of the funds, and in the manner specified in Section 16100 Such payment shall, on order of the State Controller, be deposited in the State School Building Aid Fund in the State Treasury.

It shall be the duty of such governing body and county treasurer to make the payments to the State Treasurer as provided in this section, and it shall be the duty of the State Controller to enforce such collection on behalf of the state.

This section does not authorize the board to increase any apportionment made to a school district

SEC 35 Section 16023 of the Education Code is amended to read·

16023 Notwithstanding any other provisions of this chapter, a district may apply, on a separate application, for an apportionment for the purchase of laboratory and vocational training equipment, whether or not such equipment is for use in connection with a construction project

All of the provisions of this chapter apply to such application and apportionment except that·

(a) Any application for the equipment pursuant to this section which is received by the board shall be transmitted to the Department of Education If the Department of Education approves the application, it shall refer it to the board which shall either approve or reject the application pursuant to Section 16024 Any provision of Section 16024 inconsistent with this section shall not apply to such application

(b) Section 16007 does not apply

(c) If the application is approved and an apportionment granted therefor the district shall repay the full amount of such apportionment and the interest thereon. The repayment of the apportionment, and the interest thereon, may be over a period of years, not to exceed 20 years from the first day of January of the fiscal year next succeeding the fiscal year in which such apportionment became final. The number of years allowed for repayment shall be determined by the board at the time it fixes interest on the apportionment. Such repayment is in addition to any other repayment required under this chapter.

SEC 36. Section 16029 of the Education Code is amended to read:

16029. Notwithstanding any other provisions of this chapter, a school district qualifying for an adjustment of annual repayment obligations under Section 16025 or 15731 may apply for an apportionment under this chapter.

Such apportionment shall not exceed the "eligible facilities cost", as defined in Section 16025 or 15731, and may be made available, upon the review and recommendation of the Department of Education, only for such modifications of existing facilities necessary for the implementation of continuous school programs (as defined in Chapter 5 (commencing with Section 37600) of Part 22).

In allocating funds under this chapter, the board may give first priority to school districts for modifications to existing facilities to be made pursuant to this section when in the judgment of the board such modifications of existing facilities are necessary for operation of year-round classes In no event shall apportionments be made for modifications to a standard greater than could have been constructed in a new school building under this article. All of the provisions of the chapter apply to such districts except the provisions for the establishment of priorities.

Any apportionment made under this section shall be deducted from the eligible facilities costs before the Director of General Services makes his computation of the adjustment under Section 16025 or 15731

SEC 37 Section 16034 of the Education Code is amended to read.

16034 Before the board approves an application for a furniture or equipment project, or an application for a new construction project, including furniture and equipment, and after consultation with the Department of Education, it shall establish current furniture and equipment cost standards Such standards shall not exceed the quantity and quality of furniture and equipment for comparable facilities purchased by school districts not receiving or not eligible for an apportionment under this chapter. Such standards shall consist of equipment costs for each type of classroom or pupil station which represents a differential in costs The standards shall be reviewed quarterly by the board and adjustments made in accordance with current cost standards. When standards have been adopted by the board, no apportionment shall be made by the board

in excess of such standards unless a rapid increase in costs warrants an adjustment.

Before the board approves an application for furniture and equipment in connection with an application for the replacement of, reconstruction of, alteration of, or addition to, a school building, the Department of Education, after full consideration of all the furniture and equipment existing in the applicant district that is in usable condition, shall recommend the amount that shall be approved in the application. The board may approve all or a portion of the amount so recommended.

SEC 38 Section 16036 of the Education Code is amended to read:

16036 The board shall, after consultation with the Department of Education, establish site cost standards which shall be used in evaluating the cost in relationship to the size of any site to be acquired wholly or partially with funds apportioned under this chapter. In determining such standards, consideration should be given to the following factors:

(a) The grade level of the school.

(b) The location of the school

(c) The enrollment to attend the school.

(d) The purchase price of each acre of the site.

(e) The site development cost.

(f) Land use in the area.

SEC 39 Section 16042 of the Education Code is amended to read:

16042. In addition to any powers granted the board under this chapter, the board shall have authority to make apportionments to school districts for the purchase of sites and construction or purchase of temporary and portable buildings thereon, or for such construction alone, and for the cost of site preparation, including necessary utility costs, in connection with their utilization The board may establish standards in conjunction with the Department of Education pertaining to said sites and facilities as a condition of making such apportionments.

In addition, the board may expend moneys from the State School Building Aid Fund directly for the construction, acquisition, storage, maintenance and repair of such buildings, and administrative costs relating thereto In such event the board may lease, sell or transfer under a lease-purchase agreement such buildings to eligible school districts or to county superintendents of schools. Any such agreements with school districts may provide for the payment by the state of site preparation costs, including necessary utility costs, sufficient to permit the utilization of such facilities. Any building leased for placement on the school property or under a purchase or a lease-purchase agreement shall be deemed the construction or alteration of a school building as those terms are defined in Sections 39140 to 39155, or 81130 to 81145, inclusive The consideration payable by either school districts or county superintendents for such facilities shall, as nearly as practicable, reflect an amount which would render to the state a fair return, as determined by the board, on its

investment in said facilities and expenditures connected with their utilization, in the light of the benefits conferred by the agreement pertaining thereto.

The county superintendent of schools may contract with eligible school districts respecting and transfer to them by lease, lease-purchase or sale, facilities acquired by him from the board, provided that such agreements are not inconsistent with the rights of the state under any agreement between such superintendent and the board respecting such property Repayments to the state as due shall be made by the county superintendent from the funds received from the affected school districts, and, if necessary to make the same when due, from the county school service fund, upon which he is authorized to draw requisitions for this purpose. Such fund shall be reimbursed for such withdrawals from any payments made by the affected districts to the county superintendent not required when made for the discharge of any obligations of the county superintendent hereunder to the state.

No transfer of any property acquired directly by the board to any school district by lease or otherwise shall be made either by the board or county superintendents without the approval of the Department of Education solely as to (1) the property to be transferred, including incidental construction, if any, connected therewith, (2) whether the same shall be by lease or sale, and (3) if less than a sale, the term of such lease, including any contingent or indefinite term

The board, affected school districts, and county superintendents of schools are authorized to do any and all things necessary to carry out the purposes of this section. Payments required of any affected school districts under any agreement entered into pursuant to this section shall be made promptly when due. Whenever the board deems it economically desirable in the state's interest to do so, it may dispose of any facilities directly acquired by it to any public or private parties in such manner and under such terms as it deems best, providing that such disposition is not inconsistent with any agreements previously entered into under this section.

The term "eligible school districts" as used in this section, shall be deemed to refer to those districts which at the time an agreement contemplated hereunder is entered into would upon proper application have been eligible to receive an apportionment under this chapter, provided that solely for the purpose of determining such eligibility the board, or the county superintendent of schools in agreements with districts hereunder, may waive construction area restrictions pertaining to apportionments under this chapter

SEC 40. Section 16044 of the Education Code is amended to read

16044 No apportionment shall be made for new construction which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of average daily attendance of the estimated average daily attendance in excess of that computed in accordance with Sections 16047, 16052,

16053, 16054, and 16055.

As used in Sections 16047, 16052, 16053, 16054, and 16055, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance

As used in this section and Sections 16053, 16054, and 16055, "attendance center" means a school maintained or to be maintained at a given location within a district. The Department of Education shall approve or disapprove the allocation by an applicant district of units of estimated average daily attendance among the attendance centers of the district.

To the building area permitted to an applicant school district by Sections 16047, 16052, 16053, 16054, and 16055, there may be added such additional building area as may be required to provide adequate facilities for exceptional children pursuant to Article 3 (commencing with Section 16190) of this chapter.

No estimate of average daily attendance made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, except that an estimate for the purpose of justifying an apportionment for a grade level maintained by a unified district, under an application filed prior to September 15, 1961, or by a high school district composed of grades 7 to 12, inclusive, 9 to 12, inclusive, or 7 to 10, inclusive, or of justifying an apportionment for a unified district for a junior high school or high school project under an application made on or after such effective date shall not be made for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter pupils attending grades 7 and 8 in an elementary district but residing in a high school district which maintains one or more junior high schools shall not be considered in determining or estimating the average daily attendance of the elementary district, unless the elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1959, or unless the electorate of the district, during the year 1974, has authorized the return of the seventh and eighth grade pupils from the high school district and the maintaining of grades 7 and 8 in the elementary district. When pupils attending grades 7 and 8 are so considered in determining or estimating the average daily attendance of the elementary district in making apportionment to the elementary district, such pupils shall not be considered in determining or estimating average daily attendance of the high school district in making an apportionment to the high school district

for junior high school purposes.

The board shall develop statewide or areawide averages of pupil occupancy for family dwellings of various sizes and for mobilehomes of various sizes for use by applicant school districts in estimating the average daily attendance of family dwellings and mobilehome parks under construction or newly constructed and never occupied in the district

SEC. 41 Section 16051 of the Education Code is amended to read

16051 The area of any building which has not been constructed or reconstructed under the provisions of Sections 39140 to 39155, inclusive, shall not be included in any computation of the area of adequate school construction under this chapter, provided that such area is being used exclusively for adult education classes during the regular schoolday and that the operation of such classes has been approved by the Department of Education

SEC. 42 Section 16051.5 of the Education Code is amended to read

16051 5 The area of any building, the construction of which was financed by the proceeds of a tax levied pursuant to Section 49502, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter

SEC. 43. Section 16055 of the Education Code is repealed

SEC 44 Section 16067 of the Education Code is amended to read

16067. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment or for any project or part thereof which has not been approved by the Department of Education

SEC 45 Section 16082 of the Education Code is amended to read

16082. (a) Upon request of the district, the Controller shall use in computing the "40-cent, 30-cent, and 10-cent tax amounts" under Section 16070 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of such total assessed valuation, with respect to which revenues of the district taxes levied in the 1954–1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240 If such a request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954–1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955–1956 fiscal year on the basis of such reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 16089 of such recomputed annual repayment

for the 1955–1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to such district during the 1955–1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district for the first fiscal year or second fiscal year next succeeding that in which such notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 16080, 16089, and 16090 for the fiscal year in which such increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a) hereof, Section 16081 shall not apply with respect to any tax revenues to which subdivision (a) applies.

SEC. 46. Section 16314 of the Education Code is amended to read:

16314. The following terms, as used in this article, shall have the following meanings, unless the State Allocation Board finds a different meaning is essential for properly carrying out the purposes of this article, or finds that a different meaning clearly appears from the context·

(a) "Board" means the State Allocation Board as defined in Article 1 (commencing with Section 16000) of this chapter

(b) "Director" means the Director of Education.

(c) "District" means an elementary, high school, or unified school district

(d) "Project" means the purposes for which a district has applied for assistance in the rehabilitation or replacement of unsafe school facilities at a given attendance center

(e) "Apportionment" means an apportionment made under this article, and unless the context otherwise requires, it shall be deemed to include funds of a district required by the board to be contributed toward the cost of a project.

(f) "Attendance center" means a school maintained or to be maintained at a given location within a district.

SEC 47 Section 16319 of the Education is amended to read:

16319 Apportionments under this article from the State School Building Aid Fund shall be made for the sole purpose of reconstructing or replacing existing substandard buildings that present a potential threat to the safety of schoolchildren and which do not comply with the requirements of Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 or for the purpose of restoring facilities damaged by an earthquake after February 1, 1971, and for which there are no other state or federal funds available for such

restoration. Such apportionments 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 declared to be, and are, public works:

(a) The reconstruction, renovation, or remodeling of existing school buildings and facilities.

(b) The construction of permanent or temporary school buildings and facilities for replacement purposes.

(c) The acquisition, by purchase or lease, and the installation of classrooms for replacement purposes.

(d) The acquisition and development of school sites necessary for construction of buildings approved under this article

(e) The construction, repair, attachment, or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made.

(f) The acquisition of such additional furniture and equipment as is deemed necessary by the board to make the rehabilitated or replaced facilities properly function.

(g) Any combination of the above.

Except as is provided in Section 16320, apportionments shall not be made under this article for the purpose of reconstructing or replacing existing substandard buildings which have already been reconstructed or replaced using funds made available under Chapter 1575 of the Statutes of 1947, as amended, or Chapter 5 (commencing with Section 15500), Chapter 6 (commencing with Section 15700), and Chapter 8 (commencing with Section 16000) of this part.

As a part of such purposes, 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 the district out of the apportionment, or out of any apportionment made specifically covering such insurance; provided, that in other respects the apportionments are eligible for payment under provisions of this chapter.

SEC. 48 Section 16330.5 of the Education Code is amended to read·

16330 5. Notwithstanding Section 39230 or anything to the contrary in this article, whenever the State Allocation Board determines that state funds are not available to make an apportionment for an otherwise eligible project in the amount computed pursuant to Section 16330, an application may be approved and an apportionment made for one dollar ($1) only In such instances the project may be financed by the applicant district using funds derived from a twenty-cent ($0.20) tax levy provided by Section 39230 together with any other funds available to the district for such purposes.

SEC. 49 Section 16331 of the Education Code is amended to read:

16331. A school district may obtain local funds to match the state assistance with any combination of funds available as follows:

(a) Through the issuance of school district bonds.

(b) Through the levy and collection of school district taxes. The proceeds of any such increase in the maximum tax rate shall be used exclusively for projects for which an apportionment or apportionments have been made under this article.

(c) Through the levy and collection of school district taxes as authorized by Section 39230.

(d) From any other fund available for capital outlay purposes.

SEC. 50. Section 16335 of the Education Code is amended to read:

16335. Each district to which an apportionment or apportionments has been made under this article shall repay the principal amount of such apportionment or apportionments and the accrued interest thereon in 20 equal annual payments. The first payment shall be made in the second fiscal year following the year in which the apportionment is made. In any year in which the equal annual repayment exceeds that amount which seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation for each grade level (i.e. elementary or high school) operated by the district would raise during the year of the computation, the repayment shall be reduced to the amount which the seventeen and one-half cents ($0.175) for each grade level would so raise. The amount of the reduction in computed repayment shall be canceled on the books of the State Controller. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each amount if computed separately

On or before the first day of January of each fiscal year the State Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year. The computation and collection procedures shall be in accordance with Sections 16080, 16089, and 16090

SEC. 51. Secion 16336 of the Education Code is amended to read·

16336. Notwithstanding any provisions of this article, any school district which has levied the entire twenty-cent ($0.20) tax rate per one hundred dollars ($100) of assessed valuation permitted under Section 39230 and has declared the entire proceeds therefrom available as local matching funds for a particular project, but lacks sufficient matching funds for such project as required under this article, may file an application thereunder prior to January 1, 1974. Under such circumstances the board may increase the basic computed state matching ratio of assistance in such amount, which, when added to the sum of the entire proceeds of the twenty-cent ($0.20) tax rate and such other funds which in the opinion of the board is or can be made currently available for the project, including funds authorized by the electors from bonds or otherwise, would be necessary to construct minimum essential facilities for the project as determined by the board Not more than forty-five million dollars

($45,000,000) available for the purposes of this article may be apportioned for increases in the basic computed state matching ratio pursuant to this section The source of the forty-five million dollars ($45,000,000) apportioned for this purpose shall be thirty million dollars ($30,000,000) previously appropriated for this purpose from the School Building Safety Fund by Chapter 500 of the Statutes of 1972, plus an additional fifteen million dollars ($15,000,000) of bond funds remaining from the State School Building Aid Bond Law of 1966

SEC. 52 Article 10 (commencing with Section 16380) of Chapter 8 of Part 10 of the Education Code is repealed

SEC 53 Section 66804 of the Education Code is amended to read

66804 The board of governors may adopt rules and regulations to implement the provisions of this article as these provisions apply to California community college districts or to the State of California Such rules and regulations shall contain the provision that no additional state funds shall be required to carry out the provisions of this chapter

SEC. 54 Section 71001 of the Education Code is amended to read

71001. Except for the student member appointed by the Governor, the terms of office of the members of the board shall be four years

The board shall annually select two of its members to serve as president and vice president, respectively.

SEC 55 Section 71026 of the Education Code is amended to read

71026. The chancellor's office shall periodically, according to rules and regulations adopted by the board of governors, investigate each community college to determine whether it has met the standards prescribed pursuant to Section 71025 As part of such investigation, representatives of the chancellor's office may participate in the accreditation visits conducted by the regional accrediting agency, and one representative of the chancellor's office, who may be appointed by the chancellor, may serve as a member of the accrediting commission which accredits the public community colleges

SEC. 56. Section 71027 of the Education Code is amended to read

71027 The Board of Governors of the California Community Colleges shall establish criteria and standards for credit and noncredit classes

SEC. 57 Section 71029 of the Education Code is repealed

SEC 58 Section 71030 of the Education Code is repealed

SEC 59 Section 71031 of the Education Code is repealed

SEC 60. Section 71032 of the Education Code is repealed

SEC 61. Section 71035 of the Education Code is repealed

SEC 62. Section 71036 of the Education Code is repealed

SEC 63 Section 71037 of the Education Code is repealed

SEC 64 Section 71041 of the Education Code is amended to read

71041 The board of governors shall.

(a) Revise and update budget manuals, forms and guidelines

(b) Cooperate with federal and state agencies in prescribing rules and regulations, and instructions required by such agencies.

(c) Assess the needs and methods of collecting and disseminating financial information

(d) Conduct workshops and conferences for the purpose of training community college district and county personnel.

(e) Provide consultant services to colleges and universities on courses of instruction relative to community college district budgets and accounting practices

SEC. 65. Section 71043 of the Education Code is repealed.

SEC. 66. Section 71065 of the Education Code is repealed.

SEC. 67. Section 71067 of the Education Code is repealed.

SEC. 68. Section 71074 of the Education Code is repealed.

SEC. 69 Section 71077 of the Education Code is repealed.

SEC. 70. Section 71091 of the Education Code is amended to read:

71091. The chancellor shall serve at the pleasure of the appointing power. He shall execute such duties and responsibilities as may be delegated to him by the board. Wherever in this code a power is vested in the board, the board, by a majority vote, may adopt a rule delegating such power to the chancellor or any officer, employee or committee as the board may designate. The rule shall prescribe the limits of the delegation.

SEC. 71. Section 71092 of the Education Code is amended to read:

71092. The chancellor shall employ and fix the compensation, in accordance with law, of such assistants, clerical, and other employees as he may deem necessary for the effective conduct of the work of the board and the chancellor's office.

The chancellor and his or her staff shall comprise and may be referred to as the Chancellor's Office of the California Community Colleges.

SEC. 72. Section 72233 of the Education Code is amended to read:

72233 On and after January 1, 1976, the governing board of any community college district, may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.

The chancellor's office, to the extent it is able to do so within staffing constraints, shall advise and assist community college districts on the implementation and interpretation of this section

SEC. 73. Section 72293 of the Education Code is repealed.

SEC. 74. Section 72305 of the Education Code is repealed.

SEC. 75 Section 72409 of the Education Code is amended to read:

72409. No individual serving as the chief administrative officer of a community college district shall be subject to the provisions of the merit system specified in Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 or any other similar merit system.

SEC. 76. Section 72640 of the Education Code is amended to read:

72640 The governing board of a community college district may:

(a) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places in the state, any other state, the District of Columbia, or a foreign country for students enrolled in a college A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for such pupils.

(b) Engage such instructors, supervisors, and other personnel as desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for such field trip or excursion

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of students, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where such excursions and field trips are being conducted, provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, such liability insurance shall be secured from a carrier licensed to transact insurance business in such foreign country

(d) Provide supervision of students involved in field trips or excursions by certificated employees of the district.

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds To this end, the governing board shall coordinate efforts of community service groups to supply funds for students in need of them

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance which would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims

SEC 77. Section 74015 of the Education Code is amended to read:

74015 Notwithstanding the provision of Section 74011, the Board of Governors of the California Community Colleges may grant an extension of time for submitting plans and recommendations upon request of the county committee on school district organization and the executive officer of the board of governors.

The Board of Governors of the California Community Colleges may grant a further extension of time for the submitting of plans and recommendations where such submission is its responsibility.

SEC. 78. Section 76140 of the Education Code is amended to read:

76140. A community college district may admit and shall charge a tuition fee to nonresident students The district may exempt from all or parts of the fee:

(a) All nonresidents who enroll for six units or less. Exemptions made pursuant to this subdivision shall not be made on an individual basis; or

(b) Any nonresident who is both a citizen and resident of a foreign country, provided that the nonresident has demonstrated a financial need for the exemption and not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted Exemptions made pursuant to this subdivision may be made on an individual basis. In the same manner as other nonresident students, community college districts shall be precluded from computing average daily attendance of nonresident foreign students.

A district may contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

The nonresident tuition fee shall be paid in equal installments at the beginning of each term as determined by the governing board of the district and shall be set by the governing board of each community college district not later than January 1st of each year The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in a community college.

The district governing board shall establish the nonresident tuition on the basis of one of the following computations: (a) the amount per student enrolled, derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in a community college, or

(b) the statewide average current expenditure per unit of average daily attendance in a community college during the preceding fiscal year The same fee shall be charged irrespective of the type of class in which the student is enrolled. Any loss in revenue generated by the nonresident tuition fee shall not be offset by additional state funding due to the loss of revenues derived therefrom.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 (units) for colleges operating on the semester system, and 45 (units) for colleges operating on the quarter system The same per-unit rate shall be charged all nonresident students attending any terms or sessions maintained by the community college outside of the instructional year. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance.

SEC 79. Section 76160 of the Education Code is amended to read:

76160. Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service with the armed forces of the United States, who resides in this state and more than ninety (90) miles from the nearest public community college attendance center where grades 13 and 14 are maintained, measured by the usual vehicular route between his home and such attendance center, may at his request attend grades 13 and 14 at any public community college in the state, whether or not his residence is in a district maintaining a community college. The governing board of the district maintaining such community college designated by the student shall admit the student provided he otherwise qualifies for admission.

The provisions of the preceding paragraph of this section shall be inapplicable to any student residing in a district maintaining a community college if such district maintains adequate dormitories or housing facilities or provides adequate transportation for such student between his home and the community college attendance center

If the student resides in a district maintaining a community college, the district of the student's residence shall pay to the district of the student's attendance an amount on account of such attendance computed pursuant to Section 2100. The computation shall be made and other procedures shall be undertaken in accordance with such requirements as may be prescribed by the board of governors, by or under authority of the governing board of the community college district of attendance, and shall be approved by the county superintendent of schools having jurisdiction of such district with the certification of the amount owing to be transmitted by him to the district of the student's residence. The governing board of the

district of residence shall, on or before June 1st, order payment of the amount computed as owing the district of attendance for the fiscal year, and upon failure of the governing board so to do, the county superintendent of schools having jurisdiction of the district shall draw a requisition against the funds of the district in favor of the district of attendance in payment of such amount and transmit the same to the district of attendance. For purposes of all provisions of this code dealing with allowances and apportionments from the State School Fund for support of community colleges, the district of the student's residence and the district of his attendance shall be deemed to have entered into an interdistrict attendance agreement with respect to the student

If the student resides within territory not included within any community college district the provisions of Chapter 8 (commencing with Section 2100) of Part 2 shall be applicable

In addition to the payments required under the preceding paragraphs of this section, there shall be paid to the parents or other persons having charge or control of such student at his residence and directly to adult students and married minors, by the district in which the student attends, a maintenance allowance of one dollar and fifty cents ($1.50) per calendar day or not more than two dollars ($2) per calendar day, if the county board of supervisors of the county of residence determines such larger amount to be more appropriate, for the period in which the student is enrolled full time in regular classes in a community college under this section. Such amount shall be paid on or before the 15th day after the close of the school year in which the student was so enrolled. Such payments made by a district maintaining a community college at which the student attends shall be included in that district's transportation expense as payments made in lieu of providing for transportation of students between their homes and regular full-time day schools, for purposes of Article 9 (commencing with Section 84810) of Part 50 and the amount thereof not reimbursed by the state shall be included in the computation of the amount to be paid by the district of the student's residence, or the community college tuition fund, as the case may be.

For the purpose of this section, a person shall be deemed to be honorably discharged from the armed forces (a) if he was honorably discharged from the armed forces of the United States or (b) if he was inducted into the armed forces of the United States under the "Universal Military Training and Service Act," and (1) satisfactorily completes his period of training and service under such act and is issued a certificate to that effect pursuant to such act, or (2) having served honorably on active duty was transferred to a reserve component of the armed forces of the United States pursuant to such act, or (3) was otherwise released pursuant to such act under honorable conditions.

For the purposes of this section, the term "armed forces of the United States" shall include all regular and reserve components of

the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretaries of the Army, Navy, and Air Force, and all components of the Coast Guard

SEC. 80 Section 76310 of the Education Code is repealed.

SEC. 81 Section 76320 of the Education Code is amended to read:

76320 For noncredit classes, 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 or she 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 trade or industrial subject as defined by the chancellor's office for community colleges

SEC. 82. Section 76321 of the Education Code is amended to read:

76321. In noncredit classes maintained for adults in any county jail, or any county industrial farm or county or joint county road camp, a day of attendance is 180 minutes of attendance; but no student in such a class shall be credited with more than one day of attendance in any calendar day, nor with more than 15 clock hours of attendance during any one school week.

SEC. 83 Section 76332 of the Education Code is repealed.

SEC. 84. Section 76342 of the Education Code is repealed.

SEC. 85 Section 76442 of the Education Code is repealed.

SEC. 86 Section 76455 of the Education Code is repealed.

SEC 87 Section 78005 of the Education Code is amended to read:

78005. The governing board of a community college district may establish courses outside the district primarily for students who are nonresidents of the district, providing the following conditions are fulfilled.

(a) The governing board of a high school district, not a part of the community college district, with the approval of the county board of education of the county having jurisdiction over the high school district, requests that community college classes be offered in the high school district

(b) The community college district annually reports to the board of governors, in advance of their offering, on the classes to be established or continued pursuant to this authorization.

SEC. 88 Section 78010 of the Education Code is amended to read:

78010 Notwithstanding any provision in this code to the contrary, the governing board of any school district maintaining a high school and the governing board of a community college district may enter into a contract, subject to the approval of the Superintendent of Public Instruction, for the education of community college students in vocational education classes to be conducted for such students by the district maintaining the high school. The average daily attendance of community college students enrolled in such classes, under the provisions of this section, shall be credited to the community college district and college credit may be granted students who satisfactorily complete the course of

instruction in such classes.

The governing board of a community college district which contracts with a school district pursuant to this section shall forward a copy of the contract or contracts to the board of governors.

SEC 89 Section 78011 of the Education Code is amended to read.

78011 Notwithstanding any provision of this code to the contrary, in any county with population of 75,000 or less, the county superintendent of schools and the governing board of a community college district, in such counties, may enter into a contract for the education of community college students in vocational educational classes to be conducted for such students in the regional occupational program operated by the county superintendent of schools. The average daily attendance of community college students enrolled in such classes under the provisions of this section shall be credited to the regional occupational program at the level for all other students in the regional occupational program and community college credit may be granted students who satisfactorily complete the course of instruction in such classes.

The governing board of a community college district which contracts with a county superintendent pursuant to this section shall forward a copy of the contract or contracts to the Superintendent of Public Instruction and the board of governors

SEC. 90 Section 78220 of the Education Code is repealed

SEC. 91 Section 78221 of the Education Code is repealed.

SEC 92. Section 78270 of the Education Code is repealed.

SEC. 93 Article 8 (commencing with Section 78310) of Chapter 2 of Part 48 of the Education Code is repealed

SEC. 94 Section 78409 of the Education Code is amended to read:

78409 Whenever the governing board of a community college district maintaining an adult school or classes for adults is unable to maintain the school or classes 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, maintain the school or classes of the district elsewhere than within the district or contract for instruction of the students in such school or classes with the governing board of another community college district

SEC. 95 Section 78442 of the Education Code is amended to read:

78442 The governing board of any community college district or the county superintendent of schools authorized by this article to establish special classes for adults designed to serve the educational needs of handicapped adults may contract for the providing of such classes by any adjacent high school district or unified school district, provided such classes are approved pursuant to Section 78440. For purposes of apportionments, the average daily attendance in classes conducted pursuant to the contract shall accrue to and be reported by the district in which such student resides. Any contract entered into pursuant to this section shall be for a term of not to exceed one year but may be renewed or revised and renewed annually

SEC. 96. Chapter 4 (commencing with Section 78600) of Part 48 of the Education Code is repealed.

SEC. 97. Chapter 5 (commencing with Section 78700) of Part 48 of the Education Code is repealed.

SEC 98 Chapter 6 (commencing with Section 78800) of Part 48 of the Education Code is repealed.

SEC. 99. Section 78920 of the Education Code is amended to read:

78920. Each district board shall make reports, whenever required, directly to the board of governors or chancellor's office, concerning the instructional materials used in its colleges.

SEC 100. Section 79010 of the Education Code is amended to read:

79010. During the continuance of a state of war between the United States and any foreign power, the Governor, may, whenever in his or her opinion it is necessary for the planting or harvesting of crops or for other agricultural or horticultural purposes and is for the welfare of the state, make an order closing, for such time as may be specified, any or all, or any grade or class thereof, and may, in like manner, by similar order, postpone the opening of any or all such community college, or any grade or class thereof, during the continuance of a state of war.

SEC. 101. Section 79013 of the Education Code is amended to read:

79013. An order issued under this article may be made applicable to any district, or any group thereof, as the Governor may determine and specify, and may be altered, amended, or rescinded from time to time.

SEC. 102. Article 3 (commencing with Section 79140) of Chapter 9 of Part 48 of the Education Code is repealed

SEC. 103. Article 4 (commencing with Section 79150) of Chapter 9 of Part 48 of the Education Code is repealed

SEC 104. Section 81004 of the Education Code is repealed.

SEC. 105. Section 81005 of the Education Code is amended to read:

81005. Notwithstanding any other provision of this code to the contrary, whenever under the provisions of Section 310 of the act of Congress entitled, "An act relating to the construction of school facilities in areas affected by federal activities, and for other purposes" (Public Law 81-815), or under any similar provisions of any other act of Congress, school facilities are constructed by any agency of the federal government on federal property for the education of students residing on property owned by the federal government, the governing board of the community college district in which such facilities are located or the governing board of any adjacent community college district, may make arrangements with the agency of the federal government to maintain school in such facilities. The students residing on such federal property and attending such school shall be deemed to be residents of the district maintaining such school.

SEC 106. Article 3 (commencing with Section 81050) of Chapter 1 of Part 49 of the Education Code is repealed.

SEC. 107. Section 81101 of the Education Code is repealed.

SEC 108 Section 81102 of the Education Code is repealed.

SEC 109 Section 81145 of the Education Code is repealed

SEC. 110 Section 81363 of the Education Code is amended to read

81363. The funds derived from the sale or from a lease with an option to purchase shall be used for capital outlay, provided, however, that the proceeds of property sold or leased in accordance with subdivision (a) or (b) of Section 81363.5 may be deposited in the general fund of the district if, prior to such sale or lease, the community college district governing board has determined that the district has no anticipated need for additional sites or building construction for the five-year period following such sale or lease.

SEC. 111. Section 81400 of the Education Code is amended to read

81400 After considering all proposals submitted, the governing board of the community college district shall have the authority, subject to the provisions of Section 81401, to select the plan or proposal which best meets the needs of the district and to enter into a contract incorporating that plan or proposal either as submitted or as revised by the district's governing board.

The governing board shall require any person, firm or corporation with whom it enters into a lease or agreement pursuant to this article to file a bond, executed by either two or more good and sufficient sureties or by a corporate surety, for the performance of such lease or agreement.

SEC 112. Section 81800.1 is added to the Education Code, to read·

81800.1. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state and the education of community college students is a joint obligation and function of both the state and community college districts.

In adopting this chapter, the Legislature considers that the greatest need is to provide community college facilities that will be required to house the great increase of community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.

SEC. 113 Section 81820 of the Education Code is amended to read:

81820. The governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of

funding The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes.

SEC 114. Section 81831 of the Education Code is amended to read

81831 The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821, and if approved after review by the Board of Governors of the California Community Colleges, shall transmit the approved proposed project to the Department of Finance not later than May 1st of each year A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

SEC 115. Section 81831 5 is added to the Education Code, to read.

81831 5 The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities and sites or major additions to existing facilities shall report to the chancellor's office on plans to achieve (a) a greater use of any joint or contiguous recreation and park facilities by the district and (b) possible use by the total community of such facilities and sites and recreation and park facilities.

SEC 116 Section 81833 of the Education Code is amended to read

81833 A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding May 1st of each year A proposed project submitted to the Department of Finance pursuant to Section 81831, shall be finally acted upon by the department pursuant to Section 81832 on or before the first day of July each year.

SEC 117 Chapter 6 (commencing with Section 82100) of Part 49 of the Education Code is repealed.

SEC 118 Section 84032 of the Education Code is repealed

SEC 119 Section 84321 of the Education Code is repealed

SEC. 120. Section 84323 of the Education Code is repealed.

SEC. 121. Section 84326 of the Education Code is repealed.

SEC. 122. Section 84327 of the Education Code is amended to read:

84327. The chancellor shall withhold from the apportionment to a community college district, as a part of the first principal apportionment and second principal apportionment, the amount allowed the district for the average daily attendance in grades 13 and 14 by reason of the operation of Section 84726 and Article 4.5 (commencing with Section 84764) of Chapter 5 of this part of students residing in the district who were in attendance at a community college in another district. The amount withheld per unit of average daily attendance shall be determined by dividing the total amount of basic state aid and state equalization aid computed for the district of residence of such students by the total resident average daily attendance of the district.

The chancellor shall add the amount withheld to the apportionment required to be made to the community college district maintaining the community college at which the students were in attendance

SEC. 123. Section 84330 of the Education Code is amended to read:

84330. If during any fiscal year there is apportioned to a community college district or to any fund from Section B of the State School Fund at least one hundred dollars ($100) more or at least one hundred dollars ($100) less than the amount to which the district or fund was entitled, the chancellor, not later than the third succeeding fiscal year shall withhold from, or add to, the apportionment made during such fiscal year, the amount of such excess or deficiency, as the case may be. Notwithstanding, any other provision of this code to the contrary, excesses withheld or deficiencies added by the chancellor under this section shall be added to or allowed from any portion of Section B of the State School Fund except that portion reserved as allowances for basic state aid.

SEC 124. Section 84333 of the Education Code is repealed.

SEC 125. Section 84341 of the Education Code is repealed.

SEC 126. Section 84384 of the Education Code is amended to read:

84384 There is hereby transferred from the General Fund to the Community College Fund for Instructional Improvement the sum of fifty thousand dollars ($50,000) for use by the Board of Governors of the California Community Colleges, for the 1977–78 fiscal year, to establish fund priorities, develop and implement application and review procedures and criteria, and review project applications for 1978–79 project funding.

Beginning with the 1978–79 fiscal year eight hundred thousand dollars ($800,000), or one-half of 1 percent of the total state apportionments made to community college districts in the preceding fiscal year, whichever is the lesser, of the amount

transferred from the General Fund to Section B of the State School Fund is hereby reallocated annually to the Community College Fund for Instructional Improvement to support direct grants to districts.

The chancellor shall reduce the apportionment to each community college district by the same ratio as 800,000 bears to the total number of dollars apportioned to community college districts from Section B of the State School Fund in the preceding fiscal year.

There is hereby transferred from the State General Fund to the Community College Fund for Instructional Improvement for the 1978–79 fiscal year the sum of two hundred thousand dollars ($200,000) to support direct grants to districts Commencing with the 1980–81 fiscal year, the board of governors shall annually review the need for state funds to carry out the purposes of the fund for instructional improvement and shall include an estimate of such need in its budget for each year

SEC 127 Section 84385 of the Education Code is amended to read·

84385. A portion of the Community College Fund for Instructional Improvement shall be used to provide loans to community college districts for the purposes of planning, designing, and developing instructional courses or programs.

The board of governors may authorize the transfer of funds from the amount apportioned from the General Fund to Section B of the State School Fund to make loans to community college districts for instructional development purposes In addition to such funds, the board of governors, commencing with the 1980–81 fiscal year, shall annually review the need for additional state funds to carry out the purposes of this section, and shall include an estimate of such need in its budget for each year

Loans from the fund shall not exceed one million dollars ($1,000,000) per year, and there may not be more than three million dollars ($3,000,000) in outstanding loans at any one time.

The chancellor shall reduce the apportionment to each community college district by the same ratio as the total number of dollars loaned in any fiscal year bears to the total number of dollars apportioned to community college districts from Section B of the State School Fund in the preceding fiscal year

SEC 128 Section 84503 of the Education Code is repealed

SEC 129 Section 84532 of the Education Code is repealed

SEC 130 Article 4 (commencing with Section 84560) of Chapter 4 of Part 50 of the Education Code is repealed

SEC 131 Article 6 (commencing with Section 84781) of Chapter 5 of Part 50 of the Education Code is repealed

SEC 132 Article 9 (commencing with Section 84810) of Chapter 5 of Part 50 of the Education Code is repealed

SEC 133 Article 10 (commencing with Section 84830) of Chapter 5 of Part 50 of the Education Code is repealed

SEC 134 Article 12 (commencing with Section 84860) of Chapter 5 of Part 50 of the Education Code is repealed

SEC. 135. Section 85241 of the Education Code is amended to read.

85241. The governing board of any community college district may, with the approval of the county auditor and county treasurer, in lieu of issuing single orders for the payment of the salary or wages of each employee, issue payroll orders, on forms prescribed by the county superintendent of schools for the payment of the salaries or wages of two or more employees. Payroll orders may be drawn only for the payment of salaries and wages of employees, and shall constitute requisitions on the county auditor and warrants on the county treasurer when approved and signed by the county superintendent of schools and allowed and signed by the county auditor, respectively.

SEC 136. Section 85260 of the Education Code is amended to read.

85260. In any county, the county superintendent of schools, the county board of education and the county auditor, may prescribe a payroll procedure, to be followed by designated community college districts in the county, under which the community college district governing boards, by use of payroll orders, shall authorize and direct the county superintendent of schools and the county auditor to draw separate payroll warrants in the names of the individual district employees for the respective amounts set forth therein to the end that each employee may be furnished with a statement of the amount earned and an itemization of the amounts withheld therefrom under requirements of the law or by direction of the employee

Such payroll warrants shall show the closing date of the pay period for which issued and the date of issue and a statement that it is drawn by order of the governing board of the distict and shall bear the signature of the county auditor

To obtain the advantage of a uniform pay period and pay date within districts, the payroll procedure may specify the ending date of the pay period and, notwithstanding Sections 87814, 87821, and 85244, the date of issue for payroll warrants, except that the issue date shall be on or before the 10th calendar day following the end of the pay period The payroll procedure may provide for salary payments, including salary advances, more frequently than once a month

The payroll procedure may provide for payroll orders authorizing salary payments to individual employees on a continuing basis until such time as notifications of changes or adjustments are submitted by the community college districts, provided that an itemized listing of payments made under this procedure is furnished to the community college district on or before the date of issue of the payroll warrants.

The payroll order may direct the transfer from the districts' funds to a clearing fund in the county treasury, to be known as the schools payroll revolving fund, of the total of the amount of the payroll warrants to be issued under the order to the end that payroll warrants for all districts may be drawn against a single revolving

fund The payroll order may further direct the transfer from the districts' funds of the totals of the various deductions set forth therein to the trust funds in the county treasury entitled to receive credit for them and may further direct the proper disbursement of such trust amounts.

When the payroll procedure provides for payment of salary once each month the payment shall be made on the last working day of the month as required by Section 88165.

SEC. 137. Section 85261 of the Education Code is repealed.

SEC. 138. Section 85262 of the Education Code is repealed.

SEC. 139. Section 85263 of the Education Code is repealed.

SEC 140 Section 85264 of the Education Code is amended and renumbered to read·

85267. The provisions of Article 3 (commencing with Section 29850) of Chapter 5 of Division 3 of Title 3 of the Government Code shall be applicable to any community college district authorized to issue warrants pursuant to Section 85266; except that whenever any reference is made in said Article 3 to (1) the county auditor, or (2) the general fund of the county, such reference shall be deemed, for purposes of this section, to be to (1) the person authorized by the community college district governing board to issue warrants pursuant to Section 85266, and (2) the general fund of the community college district, respectively

SEC 141 Section 87200 of the Education Code is amended to read·

87200 Nothing in this chapter shall be construed as preventing community college districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher assistants under the terms of existing law and financial support formulas.

SEC 142. Section 87214 of the Education Code is amended to read:

87214. Except as provided in this code, no certification document shall be granted to any person unless and until he has subscribed to the following oath or affirmation "I solemnly swear (or affirm) that I will support the Constitution of the United States of America, the Constitution of the State of California, and the laws of the United States and the State of California." The oath or affirmation shall be subscribed and certified or declared, pursuant to Section 2015.5 of the Code of Civil Procedure, and shall be filed with the Board of Governors of the California Community Colleges. Any certificated person who is a citizen or subject of any country other than the United States, and who is employed in any capacity in any of the public schools of the state shall, before entering upon the discharge of his duties, subscribe to an oath to support the institutions and policies of the United States during the period of his sojourn within the state Upon proof of the violation of any of the terms of the oath or affirmation, the Board of Governors of the California Community Colleges shall suspend or revoke the credential which has been issued

SEC. 143. Section 87216 of the Education Code is repealed

SEC. 144 Section 87228 of the Education Code is amended to read:

87228. Each credential issued shall contain its date of expiration and shall be issued on a form prescribed by the board of governors, and shall bear the signatures of the secretary and the president of the board of governors or their facsimile signatures.

SEC 145 Section 87270 of the Education Code is repealed.

SEC 146 Section 87294 of the Education Code is repealed

SEC. 147 Section 87332 of the Education Code is repealed.

SEC 148. Section 87408 of the Education Code is amended to read.

87408. (a) When a community college district or a county superintendent of schools wishes to employ a person in a position requiring certification qualifications and that person has not previously been employed in a position requiring certification qualifications in this state, the district or county superintendent shall require a medical certificate showing that the applicant is free from any disabling disease unfitting the applicant to instruct or associate with students The medical certificate shall be submitted directly to the governing board or county superintendent by a physician and surgeon licensed under the Business and Professions Code, a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, or a commissioned medical officer in the United States Air Force The medical examination shall have been conducted not more than six months before the submission of the certificate and shall be at the expense of the applicant A governing board or county superintendent may offer a contract of employment to an applicant subject to the submission of the required medical certificate. Notwithstanding Section 87031, the medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee

(b) The governing board of a community college district or a county superintendent of schools may require certificated employees to undergo a periodic medical examination by a physician and surgeon licensed under the Business and Professions Code, or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, to determine that the employee is free from any communicable disease unfitting the applicant to instruct or associate with students The periodic medical examination shall be at the expense of the district or county superintendent The medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee

SEC 149 Section 87412 of the Education Code is amended to read

87412 The county superintendent of schools shall be given immediate notice in writing by the governing board of the district

of the employment of persons for positions requiring certification qualifications.

SEC 150 Section 87422 of the Education Code is amended to read.

87422 The governing board of a community college district may enter into an agreement with the proper authorities of any foreign country, or of any state, territory, or possession of the United States, or other district within the state, for the exchange and employment of regularly credentialed employees and employees of public schools of any foreign country, state, territory, or possession, or other district within this state. Any certificated person so employed as provided in this section shall be known as an "exchange certificated employee." No exchange shall be made without the consent of the employee to be exchanged

Due consideration shall be given to the general qualifications and professional status of the exchange employee as compared to the general qualifications and professional status of the employee for whom exchanged. However, it shall not be a requirement that an exchange certificated employee be an instructor of the same subject or grade, or both, as the employee for whom exchanged. If the service authorized is other than teaching, it shall not be a requirement that the service be at the same grade level or that the service be exactly the same as the employee for whom exchanged.

No person may be employed as an exchange employee by a community college district in the state unless he holds the necessary valid credential or credentials issued by the board of governors authorizing him to serve in a position requiring certification qualifications in the community college district proposing to employ him. The board of governors may establish minimum standards for the credentials for exchange certificated employees, provided however, that no exchange certificated employee shall be required to pay any fee or other charge for the issuance to him of any necessary valid credential or credentials authorizing him to serve in a position requiring certification qualifications in any community college district in this state

An exchange agreement may be made for a period not to exceed three years

At the end of the assignment period, the exchange, with the consent of all parties, may be made complete and permanent.

SEC. 151. Section 87425 of the Education Code is repealed.

SEC. 152 Section 87433 of the Education Code is repealed.

SEC. 153. Section 87434 of the Education Code is repealed.

SEC 154 Section 87710 of the Education Code is repealed.

SEC. 155 Section 87713 of the Education Code is repealed.

SEC 156. Section 87768 of the Education Code is amended to read:

87768 Notwithstanding any other provision of this code, the governing board of any community college district may grant a leave of absence under Section 87767 to any employee engaged in a

teaching position who has rendered service to the district for at least six consecutive years preceding the granting of the leave, but not more than one such leave of absence shall be granted in each six-year period. The governing board granting the leave of absence may prescribe the standards of service which shall entitle the employee to the leave of absence No absence from the service of the district under a leave of absence, other than a leave of absence granted pursuant to Section 87767, granted by the governing board of the district shall be deemed a break in the continuity of service required by this section, and the period of such absence shall not be included as service in computing the six consecutive years of service required by this section. Service under a national recognized fellowship or foundation approved by the board of governors, for a period of not more than one year, for research, teaching or lecturing shall not be deemed a break in continuity of service, and the period of such absence shall be included in computing the six consecutive years of service required by this section.

SEC 157 Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of the Education Code is repealed

SEC. 158 No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905 2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code

---

CHAPTER 798

An act to amend Sections 25457 and 25480 of the Government Code, relating to county hospitals

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 25457 of the Government Code is amended to read

25457 In counties employing a purchasing agent, furnishings, materials, supplies and employment of independent contractors used in the construction or repair of any of the works mentioned in Section 25450 costing not more than six thousand five hundred dollars ($6,500) in total may be purchased by the purchasing agent in accordance with Article 7 (commencing with Section 25500) of this chapter without the formality of obtaining bids, letting contracts, preparing specifications, and the other things required by this article

and Article 7 (commencing with Section 25500) for purchases or contracts costing more than six thousand five hundred dollars ($6,500).

In counties employing purchasing agents, purchases or contracts for medical or surgical equipment or supplies, or for professional services, for a county hospital may be made without competitive bidding, so long as an appropriation for the costs of such purchases or contracts is included in the county budget

As used in this section, "medical or surgical equipment or supplies" means only equipment or supplies commonly, necessarily, and directly used by or under the direction of a physician and surgeon in caring for or treating a patient in a hospital

SEC 2 Section 25480 of the Government Code is amended to read

25480 In any county which does not employ a purchasing agent the board of supervisors shall annually or at such lesser intervals as it deems appropriate advertise for at least 10 days in a newspaper of general circulation in the county for sealed bids for furnishing the county with stationery, clothing, bedding, groceries, provisions, drugs, medicines, and all other supplies. If there is no newspaper published in the county, notices calling for bids shall be posted in three public places in the county.

This section shall not apply to purchases or contracts for medical or surgical equipment or supplies, or for professional services, for a county hospital so long as an appropriation for the costs of such purchases or contracts is included in the county budget.

As used in this section, "medical or surgical equipment or supplies" means only equipment or supplies commonly, necessarily, and directly used by or under the direction of a physician and surgeon in caring for or treating a patient in a hospital.

CHAPTER 799

An act to amend Sections 8302, 8306 8, 8306 9, and 8308 of, to amend and renumber Section 8300 5 of, to add Section 8305 9 to, to repeal Sections 8300 and 8307 of, and to repeal and add Sections 8306, 8306 1, 8306 2, 8306 3, and 8306 4 to, the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 8300 of the Fish and Game Code is repealed

SEC 2 Section 8300.5 of the Fish and Game Code is amended and renumbered to read

8300 No species of abalone (genus Haliotis) shall be taken during

the months of February and August.

SEC 3. Section 8302 of the Fish and Game Code is amended to read:

8302. Abalone may be taken only for food purposes.

SEC. 5. Section 8305 9 is added to the Fish and Game Code, to read.

8305 9 The commission may, whenever necessary to prevent overuse, rehabilitate the resource, or otherwise carry out the provisions of this article, close or open areas for up to two years for the commercial taking of abalone, provided that the area opened is also opened or the area closed is also closed to sport taking of abalone pursuant to Chapter 2 (commencing with Section 200) of Division 1. This section shall become operative March 1, 1982.

SEC. 6 Section 8306 of the Fish and Game Code is repealed.

SEC. 7 Section 8306 is added to the Fish and Game Code, to read.

8306 The commission shall establish the number of abalone diving permits to be issued for each annual season as necessary to protect the resource

SEC 8. Section 8306 1 of the Fish and Game Code is repealed.

SEC 9 Section 8306.1 is added to the Fish and Game Code, to read.

8306 1 When the commission establishes the number of abalone diving permits which shall be issued, it shall determine the reasonable percentage of such permits which shall be issued to persons qualifying as a new entrant pursuant to subdivision (b) of Section 8306.2.

SEC. 10 Section 8306 2 of the Fish and Game Code is repealed

SEC. 11. Section 8306 2 is added to the Fish and Game Code, to read:

8306.2 Abalone diving permits shall be issued in two categories, as follows:

(a) The category of prior permittees shall consist of abalone diving permittees who during the preceding season landed at least 6,000 pounds of abalone or who made 20 landings for each of which a receipt was received as provided in Section 8011. The person affected by this section may appeal to the commission, submitting circumstances surrounding nonuse of a permit, and request classification as a prior permittee. The commission may so classify the appellant if it finds the nonuse of the permit was for reasons beyond the control of the applicant under the circumstances.

(b) There shall be a category of new entrants. An applicant shall be eligible for this category if he does not qualify as a prior permittee and meets either of the following conditions:

(1) At least three years experience as an abalone diver or crewmember.

(2) Successful completion of a proficiency test administered by the department, under such regulations as the commission shall prescribe

SEC 12 Section 8306 3 of the Fish and Game Code is repealed

SEC 13. Section 8306.3 is added to the Fish and Game Code, to read

8306.3. Whenever there are more applicants than there are permits available in a category, a drawing shall be held to determine who will receive the permits in that category.

SEC. 14 Section 8306.4 of the Fish and Game Code is repealed.

SEC. 15. Section 8306.4 is added to the Fish and Game Code, to read

8306 4 If there is a drawing in the category of prior permittee, then such drawing shall be held before permits are awarded to new entrants An eligible person who fails to receive a permit at the prior permittee drawing shall then be eligible to request a permit as a new entrant and to participate on an equal basis in a new entrant's drawing.

Any person who had a permit but is not eligible to participate as a prior permittee because of insufficient pounds landed or insufficient landings, may participate as a new entrant only if all other persons in the category, both new persons and prior permittees who did not receive a permit under the prior permittee category in a drawing, have received a permit, or if one season has elapsed since the prior permit expired.

SEC 16. Section 8306 8 of the Fish and Game Code is amended to read

8306 8 Abalone may not be taken for commercial purposes except under a revocable abalone diving or crewmember permit issued by the department under such regulations as the commission shall prescribe The diving permit fee is two hundred dollars ($200). The crewmember permit fee is one hundred dollars ($100).

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

SEC 17 Section 8306 9 of the Fish and Game Code is amended to read

8306 9 The Legislature finds and declares that the restrictions on the issuance of abalone diving permits specified in this article, are necessary to insure that abalone diving permittees possess the level of experience needed to protect and enhance the state's abalone resources

SEC 18. Section 8307 of the Fish and Game Code is repealed.

SEC 19 Section 8308 of the Fish and Game Code is amended to read

8308 It is unlawful for a holder of a permit to commercially take abalone to possess or control more than 20 dozen black abalone at any time

CHAPTER 800

An act to add Section 10147 5 to the Business and Professions Code, relating to real estate

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 10147.5 is added to the Business and Professions Code, to read:

10147 5 (a) Any printed or form agreement which fixes the compensation to be paid to a real estate licensee for the sale of residential real property containing not more than four residential units shall contain the following statement in not less than 10-point boldface type immediately preceding any provision of such agreement relating to compensation of the licensee:

Notice The amount or rate of real estate commissions is not fixed by law They are set by each broker individually and may be negotiable between the seller and broker

(b) The amount or rate of compensation shall not be printed in any such agreement

(c) Nothing in this section shall affect the validity of a transfer of title to real property.

SEC 2 This act shall become operative on July 1, 1980

CHAPTER 801

An act to amend Section 9105 of the Business and Professions Code, relating to registered construction inspectors

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 9105 of the Business and Professions Code is amended to read

9105 This chapter 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, or employees of such persons insofar as the registrant is practicing within the provisions of the law under which he is registered, or the employee is working under the supervision of the registrant, except that such person shall not use the title or term "registered inspector" unless registered under the provisions of this chapter.

CHAPTER 802

An act to add Chapter 28 (commencing with Section 24700) to Part 13 of the Education Code, relating to public retirement systems.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Chapter 28 (commencing with Section 24700) is added to Part 13 of the Education Code, to read·

CHAPTER 28. COST-OF-LIVING ADJUSTMENT

24700. The Legislature recognizes that inflation erodes the purchasing power of benefits paid under the State Teachers' Retirement System. It is the intent of the Legislature to understand the degree of erosion of these benefits. The board shall report to the Governor and Legislature no later than April 1 of each year on the extent of which inflation has eroded the purchasing power of benefits under the State Teachers' Retirement System. The board shall indicate the amount of supplementary increases in retirement allowances required to preserve the purchasing power of benefits provided by the system The board shall also determine and report on the increases

---

CHAPTER 803

An act to amend Section 2954.8 of the Civil Code, relating to impound accounts

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 2954.8 of the Civil Code is amended to read

2954 8. (a) Every financial institution that makes loans upon the security of real property containing only a one- to four-family residence and located in this state or purchases obligations secured by such property and that receives money in advance for payment of taxes and assessments on the property, for insurance, or for other purposes relating to the property, shall pay interest on the amount so held to the borrower The interest on such amounts shall be at the rate of at least 2 percent simple interest per annum. Such interest shall be credited to the borrower's account annually or upon termination of such account, whichever is earlier

(b) No financial institution subject to the provisions of this section shall impose any fee or charge in connection with the maintenance or disbursement of money received in advance for the payment of taxes and assessments on real property securing loans made by such financial institution, or for the payment of insurance, or for other purposes relating to such real property, that will result in an interest rate of less than 2 percent per annum being paid on the moneys so received

(c) For the purposes of this section, "financial institution" means a bank, savings and loan association or credit union chartered under the laws of this state or the United States, or any other person or organization making loans upon the security of real property containing only a one- to four-family residence

(d) The provisions of this section do not apply to any of the following

(1) Loans executed prior to the effective date of this section.

(2) Moneys which are required by a state or federal regulatory authority to be placed by a financial institution other than a bank in a non-interest-bearing demand trust fund account of a bank

The amendment of this section made by the 1979–80 Regular Session of the Legislature shall only apply to loans executed on or after January 1, 1980

SEC 2 The provisions of this act shall become operative only if Proposition No 2 is approved by the voters on November 6, 1979.

CHAPTER 804

An act to amend Sections 10851 and 11004 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 10851 of the Welfare and Institutions Code is amended to read

10851 (a) Each county shall establish and maintain a case record for each public social services case and shall retain such record for a period of three years. The three-year retention period begins on the date on which public social services were last provided The records shall be retained beyond the three-year retention period when the county is notified by the department or the State Department of Health Services, whichever has jurisdiction over the records, to retain records for a longer period of time The department or the State Department of Health Services, whichever has jurisdiction over the records, shall instruct a county to retain records beyond the three-year period when such retention is

necessary to a pending civil or criminal action.

(b) Notwithstanding subdivision (a), the board of supervisors of any county may authorize the destruction of the case narrative portions of the case record that are over three years old in any case file, active or inactive, only after audit by the department or the State Department of Health Services, whichever has jurisdiction over the record In addition, the board may also authorize the destruction of those documents contained in the case file which are over three years old and are no longer necessary to document the recipient's continued eligibility for public social services. However, if a civil or criminal action against a person based on alleged unlawful application for, or receipt of, public social services, is commenced before the expiration of the three-year period no portion of the case record of such person shall be destroyed until such action is terminated.

(c) Each county shall maintain fiscal, statistical and other such records necessary for maintaining accountability and meeting reporting requirements relating to the administration of public social services. Such fiscal and reporting records shall be retained for a minimum period of three years from the date of submission of the final expenditure report and shall be retained beyond the three-year period when audit findings have not been resolved.

(d) The retention requirements imposed by subdivisions (a) and (c) of this section are for public social services purposes only and are superseded to the extent another statute requires retention of the same records for a longer period for a different purpose.

SEC 2 Section 11004 of the Welfare and Institutions Code is amended to read:

11004 The provisions of this code relative to public social services for which state grant-in-aid are made to the counties shall be administered fairly to the end that all persons who are eligible and apply for such public social services shall receive the assistance to which they are entitled promptly, with due consideration for the needs of applicants and the safeguarding of public funds.

(a) Any applicant for, or recipient or payee of, such public social services shall be informed as to the provisions of eligibility and his responsibility for reporting facts material to a correct determination of eligibility and grant.

(b) Any applicant for, or recipient or payee of, such public social services shall be responsible for reporting accurately and completely within his competence those facts required of him pursuant to subdivision (a) and to report promptly any changes in those facts.

(c) Any person who makes full and complete disclosure of those facts as explained to him pursuant to subdivision (a) is entitled to rely upon the award of public social services as being accurate, and that the warrant he receives correctly reflects the award made, except that the county providing the social services shall be allowed a period of six months following the month of payment, or six months following the hearing provided in subdivision (e), within which to

adjust any errors or changes in amount of grant resulting from changes in income or need which occur too late to be reflected in the grant for the current month Whenever possible, adjustments or overpayments shall be prorated evenly over the adjustment period.

(d) If any overpayment which results because of the willful failure to report facts in accordance with subdivision (b) or because of any willfully fraudulent device, the county providing the social services shall be allowed a period of one year following the month of the discovery of the overpayment, or one year following the hearing provided in subdivision (e), to adjust current grants to recover the overpayment. Such adjustment shall be permitted concurrently with any suit for restitution, and recovery of overpayment by adjustment shall reduce by the amount of such recovery the extent of liability for restitution.

(e) Current grants may be reduced because of prior overpayments only if the recipient has income or resources available in the amount by which the county proposes to reduce payment, except that where there is evidence which clearly establishes that a recipient willfully withheld information about his income or resources, such income or resources may be considered in the determination of need to reduce the amount of the grant in current or future periods Prior to effecting any reduction of current grants to recover prior overpayments, the recipient shall be advised of the proposed reduction and of his entitlement to a hearing on the propriety of the reduction. In no event shall the grant to a needy child be reduced unless the parents or other responsible persons have sufficient available resources or income to meet the current needs of the needy child according to the department standard during the period of reduction

(f) If it is found that a recipient or a family was possessed of property in excess of the amount permitted by law, and it cannot be established that the recipient or family received such public social service in bad faith, without honestly believing eligibility was properly established, the amount collectible shall be limited to an amount equal to the market value of the excess property or the value of the public social service granted during the period the excess property was held, whichever is the lesser

(g) No civil or criminal action may be commenced against any person based on alleged unlawful application for or receipt of public social services, where the case record of such person has been destroyed after the expiration of the three-year retention period pursuant to Section 10851.

(h) When an underpayment or denial of public social service occurs because of an administrative error or inadvertence on the part of a county, and as a result the applicant or recipient does not receive the amount to which he is entitled, the county shall provide public social services equal to the full amount of the underpayment which occurred during the period of one year immediately preceding the date the error or inadvertence is discovered

(i) This subdivision shall be applicable only to applicants, recipients and payees under Chapter 2 (commencing with Section 11200) Any suits to recover overpayments described in subivision (d) shall be brought on behalf of the county by the county counsel unless the board of supervisors delegates such duty to the district attorney by ordinance or resolution.

SEC 3 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 805

An act to amend Sections 1801.5, 1802 6, 1802 18, 1803 3, 1806.3, 1807.2, 1808.2, 1808.3, 1808 5, 1808.6, 2981, 2982.5, 2982 8, 2983, 2983 1, and 2984.3 of, to amend, repeal and add Sections 1803.2 and 2982 of, to add Title 1.83 (commencing with Section 1799.5) and Title 1 84 (commencing with Section 1799.8) to Part 4 of Division 3 of, to add Sections 1802.20, 1802 21, 1805.1, 1805.7, 1805.8, 1805.9, and 2981 7 to, and to repeal Section 1805.1 of, the Civil Code, relating to finance charges.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Title 1 83 (commencing with Section 1799 5) is added to Part 4 of Division 3 of the Civil Code, to read.

TITLE 1 83. PRECOMPUTED INTEREST

1799.5. (a) "Precomputed interest" means interest, as that term is contemplated by the Truth in Lending Act, 15 United States Code 1605(a) (1), computed by multiplying the original balance of the loan by a rate and multiplying that product by the number of payment periods elapsing between the date of the loan and the date of the last scheduled payment and either adding the product to the original principal balance of the loan in advance or subtracting it from the loan proceeds.

(b) No loan which is made to a natural person primarily for personal, family, or household purposes shall provide for the payment of precomputed interest if the date on which the final installment is due, according to the original terms of the loan, is more than 62 months after the date of the loan

(c) For purposes of determining whether a loan is covered by this

title, the lender may conclusively rely on any written statement of intended purpose signed by the borrower Such written statement may be a separate statement signed by the borrower or may be contained in a loan application or other document signed by the borrower.

(d) For purposes of this title, the term "loan" does not include the forbearance of a debt arising from a sale or lease of property and does not include any loan arising under an open end credit plan.

(e) This title shall apply only to loans made on or after January 1, 1983.

SEC. 2. Title 1.84 (commencing with Section 1799.8) is added to Part 4 of Division 3 of the Civil Code, to read·

TITLE 1.84. PRECOMPUTED FINANCE CHARGE CONTRACT

1799.8. (a) "Precomputed finance charge" means a finance charge which is (1) computed by multiplying the original contract balance by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment and (2) either added to the original contract balance in advance or subtracted from the contract balance

(b) "Contract" means any agreement (1) providing for the construction, sale, or construction and sale of an entire residence, with or without a parcel of real property or an interest therein, or for the sale of a lot or parcel of real property, including any site preparation incidental to such sale, and (2) where the purchaser is a natural person who enters into such agreement primarily for personal, family, or household purposes.

(c) No contract as defined in subdivision (b) shall provide for the payment of a precomputed finance charge if the date on which the final installment is due, according to the original terms of the contract, is more than 62 months after the date of the contract.

(d) For purposes of determining whether a contract is covered by this title, the seller may conclusively rely on any written statement of intended purpose signed by the purchaser. Such written statement may be a separate statement signed by the purchaser or may be contained in a credit application or other document signed by the purchaser

(e) This title shall apply only to contracts entered into on or after January 1, 1983.

SEC 3. Section 1801 5 of the Civil Code is amended to read·

1801.5 Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a retail installment contract or other document under this chapter may be disclosed in any manner, method, or 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 or other document of

additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made

SEC. 4 Section 1802.6 of the Civil Code is amended to read

1802 6. "Retail installment contract" or "contract" means any contract for a retail installment sale between a buyer and seller, entered into or performed in this state, which provides for (a) repayment in installments, whether or not such contract contains a title retention provision, and in which the buyer agrees to pay a finance charge, or in which the buyer does not agree to pay a finance charge but the goods or services are available at a lesser price if paid for by either cash or credit card, or in which the buyer would have received any additional goods or services or any higher quality goods or services at no added cost over the total amount payable in installments if the sale had been for cash, or (b) which provides for payment in more than four installments. When taken or given in connection with a retail installment sale, the term includes but is not limited to a security agreement and a contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of their value and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the goods upon full compliance with the terms of the contract.

SEC. 5. Section 1802.18 of the Civil Code is amended to read

1802.18 "Regulation Z" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the Federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals

SEC 6 Section 1802 20 is added to the Civil Code, to read·

1802 20. "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time, either

(a) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(b) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge

SEC 7 Section 1802 21 is added to the Civil Code, to read·

1802.21 "Precomputed basis" means the determination of a

finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date on which the finance charge begins to be assessed and the date of the last scheduled payment

SEC. 7 3 Section 1803.2 of the Civil Code is amended to read·

1803 2. Except as provided in Section 1808.3, every retail installment contract shall be contained in a single document which shall contain·

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services, including any promissory notes or any other evidences of indebtedness between the parties relating to the transaction

(b) Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Security Agreement" or "Lien Contract," as the case may be, shall appear in at least 10-point bold type where a security interest in the goods is retained or a lien on other goods or realty is obtained by the seller as security for the goods or services purchased. Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Retail Installment Contract" shall appear in at least 10-point bold type where a security interest or lien is not obtained by the seller as security for the goods or services purchased. As used in this subdivision, the terms "security interest" and "lien" refer to a contractual interest in property and not to a mechanic's lien or other interest in property arising by operation of law.

(c) Where the contract includes a finance charge which is determined on the precomputed basis, a notice as set forth in either item (1) or item (2) in at least 10-point bold type

(1) "Notice to the buyer. (1) Do not sign this agreement before you read it or if it contains any blank space (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 to obtain a partial refund of the finance charge, if any, provided for herein (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(2) "Notice to the buyer (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78's, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(d) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice in at least 10-point

bold type reading as follows· "Notice to the buyer (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(e) This section shall remain in effect only until January 1, 1981, and as of such date is repealed.

SEC. 7.5. Section 1803 2 is added to the Civil Code, to read

1803.2 Except as provided in Section 1808 3, every retail installment contract shall be contained in a single document which shall contain.

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services, including any promissory notes or any other evidences of indebtedness between the parties relating to the transaction.

(b) Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Security Agreement" or "Lien Contract," as the case may be, shall appear in at least 10-point bold type where a security interest in the goods is retained or a lien on other goods or realty is obtained by the seller as security for the goods or services purchased Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Retail Installment Contract" shall appear in at least 10-point bold type where a security interest or lien is not obtained by the seller as security for the goods or services purchased As used in this subdivision, the terms "security interest" and "lien" refer to a contractual interest in property and not to a mechanic's lien or other interest in property arising by operation of law

(c) Where the contract includes a finance charge which is determined on the precomputed basis, a notice in at least 10-point bold type reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space (2) You are entitled to a completely filled-in copy of this agreement (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge Because the refund will be figured by the Rule of 78's, the time when you prepay may affect the ultimate cost of credit under this agreement (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request "

(d) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice in at least 10-point bold type reading as follows "Notice to the buyer· (1) Do not sign this agreement before you read it or if it contains any blank space (2) You are entitled to a completely filled-in copy of this agreement (3) You can prepay the full amount due under this agreement at any time (4) If you desire to pay off in advance the full amount due, the

amount of the refund you are entitled to, if any, will be furnished upon request."

(e) This section shall become operative January 1, 1981.

SEC. 8. Section 1803.3 of the Civil Code is amended to read:

1803.3 Except as provided in Article 8 (commencing with Section 1808.1) of this chapter, a contract shall contain the following:

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods or services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail sufficient to identify them in a separate writing.

(b) The cash price of the goods, services and accessories which are the subject matter of the retail installment sale.

(c) The amount of the buyer's downpayment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.

(d) The difference between item (b) and item (c), which is the unpaid balance of cash price.

(e) The amount, if any, included for insurance, specifying the coverages.

(f) The amount, if any, of official fees.

(g) The amount of the unpaid balance, which is the sum of items (d), (e), and (f).

(h) The amount, if any, of an administrative finance charge

(i) The amount financed, which is the difference between item (g) and item (h).

(j) The finance charge (1) expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars.

(k) The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

(*l*) The deferred payment price, which is the sum of the amounts determined in items (b), (e), (f) and (j).

(m) Any "balloon payments," as described in Section 1807.3.

(n) (1) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the buyer Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, disclosure of that fact and the amount of the minimum finance charge or its method

of calculation.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item (j) shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates

SEC. 9. Section 1805.1 of the Civil Code is repealed.

SEC. 10. Section 1805.1 is added to the Civil Code, to read:

1805 1. (a) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), 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

(2) Twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10)

(b) If the finance charge, or a portion thereof, is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of·

(1) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if item (1) of subdivision (a) were applicable to the contract; or

(2) (A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(c) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(d) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds

five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (2) of subdivision (b) charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (b). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract

SEC. 11. Section 1805.7 is added to the Civil Code, to read:

1805.7 All contracts entered into between a buyer and a seller on or after January 1, 1983, shall provide for the calculation of the finance charge contemplated by item (1) of subdivision (a) of Section 1805 1 on the simple-interest basis if the date on which the final installment is due, according to the original terms of the contract, is more than 62 months after the date of the contract.

SEC. 11.5. Section 1805.8 is added to the Civil Code, to read

1805.8. The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the goods, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed in item (j) of Section 1803.3.

SEC. 11.7 Section 1805.9 is added to the Civil Code, to read:

1805 9. No contract shall provide for a finance charge which is determined in part by the precomputed basis and in part by the simple-interest basis, except for any finance charge permitted by Section 1805.8.

SEC. 12 Section 1806 3 of the Civil Code is amended to read·

1806.3 (a) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to repay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in items (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund

credit in the amount of one dollar ($1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where the finance charge or a portion thereof is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by paragraph (2) of subdivision (a) or paragraph (2) of subdivision (b) of Section 1805.1, if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(b) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any retail installment contract is satisfied prior to its maturity through surrender of the collateral, repossession of the collateral, redemption of the collateral after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in subdivision (a); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the collateral through disposition thereof or judgment is entered or, if the holder elects to keep the collateral in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the collateral.

(c) This section does not preclude the collection or retention by the holder of any delinquency charge made pursuant to Section 1803.6.

SEC 13. Section 1807 2 of the Civil Code is amended to read:

1807 2. The holder of a retail installment contract or contracts may, upon agreement in writing with the buyer, refinance the payment of the unpaid time balance or balances of the contract or contracts by providing for a new schedule of installment payments. The holder may charge and contract for the payment of a refinance charge by the buyer and collect and receive the same, but such refinance charge (1) shall be based upon the amount refinanced, plus any additional cost of insurance and of official fees incident to such refinancing, after the deduction of a refund credit in an amount equal to that to which the buyer would have been entitled under Section 1806.3 if he had prepaid in full his obligations under the contract or contracts, but in computing such refund credit there shall not be allowed the minimum earned finance charge as authorized by such section, (2) may not exceed the rate of finance charge provided under Article 5 (commencing with Section 1805.1), and (3) may not

include an administrative finance charge to the extent such charge is permissible under Article 5 (commencing with Section 1805.1) Such agreement for refinancing may also provide for the payment by the buyer of the additional cost to the holder of the contract or contracts of premiums for continuing in force, until the maturity of the contract or contracts as refinanced, any insurance coverages provided for therein, subject to the provisions of Section 1803 5 The refinancing agreement shall set forth:

(a) The amount of the existing outstanding balance to be refinanced, which consists of the unpaid time balance or balances to be refinanced

(b) The amount of any refund credit.

(c) The difference between items (a) and (b), which is the net outstanding balance to be refinanced.

(d) Any additional cost of insurance and of official fees to the buyer.

(e) The sum of items (c) and (d), which is the amount financed

(f) The finance charge (1) as expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars

(g) The number amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

(h) Any "balloon payments," as described in Section 1807 3

The items need not be stated in the sequence or order set forth above, additional items may be included to explain the computations made in determining the amount to be paid by the buyer Where there is a consolidation of two or more contracts then the provisions of Sections 1808.1 and 1808.2 shall apply. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item (f) shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

SEC. 14. Section 1808 2 of the Civil Code is amended to read.

1808.2 When a subsequent purchase is made, the entire amount of all payments made previous thereto shall be deemed to have been applied toward the payment of the previous deferred payment price or deferred payment prices. Each payment thereafter received shall be deemed to be allocated to all of the various deferred payment prices in the same proportion or ratio as the original cash sale prices of the various purchases bear to one another; where the amount of each installment payment is increased in connection with the subsequent purchase, the subsequent payments (at the seller's election) may be deemed to be allocated as follows: an amount equal to the original payment to the previous deferred payment price, and an amount equal to the increase, to the subsequent deferred payment price However, the amount of any initial or downpayment on the subsequent purchase shall be deemed to be allocated in its entirety to such purchase.

When a subsequent purchase under this section is made the seller shall deliver to the buyer, prior to the due date of the first

installment, a memorandum which shall set forth the following

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods and services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail in a separate writing

(b) The cash price of the goods, services and accessories which are the subject matter of the new retail installment sale.

(c) The amount of the buyer's downpayment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in

(d) The difference between item (b) and item (c) which is the unpaid balance of cash price.

(e) The amount of the existing outstanding balance to be consolidated, which consists of the unpaid time balance or balances of the prior contract or contracts to be consolidated.

(f) The amount of any unearned finance charge, determined by deducting from the amount of item (e) any then unearned finance charge in an amount not less than the refund credit provided for in Article 6 (commencing with Section 1806.1) of this chapter (computed, however, without the allowance of any minimum earned finance charge).

(g) The difference between items (e) and (f), which is the net outstanding balance to be consolidated.

(h) The amount, if any, included for insurance, specifying the coverages.

(i) The amount, if any, of official fees.

(j) The unpaid balance, which is the sum of items (d), (g), (h) and (i).

(k) The finance charge (1) expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars, and computed in conformity with Section 1808.5.

(*l*) The number, amount, and due dates or periods of payment scheduled to repay the indebtedness and the sum of such payments.

(m) Any "balloon payments" as described in Section 1807.3.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item (k) shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

SEC 15 Section 1808 3 of the Civil Code is amended to read:

1808.3 If a credit sale is one of a series of transactions made pursuant to an agreement providing for the addition of the amount financed plus the finance charge for the current sale to an existing outstanding balance, and the disclosures required under this article for the initial sale and each subsequent sale are delayed until some

date prior to the date the first payment for that particular sale is due; and

(1) The customer has approved in writing both the annual percentage rate or rates and the method of treating any unearned finance charge on an existing outstanding balance in computing the finance charge or charges; and

(2) The seller retains no security interest in any property as to which he has received payments aggregating the amount of the sale price including any finance charges attributable thereto; then, for the purposes of this section, in the case of items purchased on different dates, the first purchased shall be deemed first paid for, and in the case of items purchased on the same date the lowest priced shall be deemed first paid for.

When a credit sale under this section is made, the seller shall deliver to the buyer, prior to the due date of the first installment, a memorandum which shall set forth the following:

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods and services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail in a separate writing

(b) The cash price of the goods, services and accessories which are the subject matter of the new retail installment sale

(c) The amount of the buyer's downpayment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.

(d) The difference between item (b) and item (c), which is the unpaid balance of cash price

(e) The amount, if any, included for insurance, specifying the coverages.

(f) The amount, if any, of official fees.

(g) The amount financed, which is the sum of items (d), (e) and (f).

(h) The amount of the finance charge (1) expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars, which is to be computed in accordance with this chapter.

(i) The deferred payment price, which is the sum of the amounts determined under items (b), (e), (f) and (h).

(j) The previous balance, which is the amount owing on prior purchases

(k) The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

(*l*) Any "balloon payments," as described in Section 1807.3.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item (h)

shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

SEC 16. Section 1808.5 of the Civil Code is amended to read·

1808 5 Subject to the other provisions of Article 5 (commencing with Section 1805 1), the finance charge to be included in a consolidated total of payments under subdivision (*l*) of Section 1808.2 shall be determined by applying the finance charge at the applicable rate specified in that article to the unpaid balance under subdivision (j) of Section 1808.2, for the period from the date of such consolidation to and including the date when the final installment of such consolidated total is payable, provided, further, that such finance charge shall not include an administrative finance charge.

SEC. 17. Section 1808.6 of the Civil Code is amended to read·

1808 6 The minimum finance charge as provided in paragraph (2) of subdivision (a) or paragraph (2) of subdivision (b) of Section 1805.1 may be used but once in any series of add-on transactions

SEC. 18. Section 2981 of the Civil Code is amended to read:

2981 As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer but the title vests in the buyer thereafter only upon the payment of all or part of the price, or upon the performance of any other condition, or

(2) Any contract for the bailment of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract, or

(3) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer, and a lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is

executed, and may include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, and improvements.

(f) "Downpayment" means any payment which the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract.

(g) "Unpaid balance" means the difference between (e) and (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid (1) to any public officer in connection with the transaction, and (2) for license, certificate of title, and registration fees imposed by law.

(h) "Finance charge" means any amount which the buyer agrees to pay to the seller in excess of the unpaid balance.

(i) "Total of payments" or "contract balance" means the amount unpaid under the conditional sale contract, which the buyer agrees to pay in installments to the seller as originally provided therein, and shall not include amounts for which the buyer may later become obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle, preservation of the security interest therein, or otherwise. Either term may be used in lieu of the other in complying with this chapter.

(j) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code which is bought for use primarily for personal or family purposes, and does not mean any vehicle which is bought for use primarily for business or commercial purposes.

(k) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional sale contract. The purchase order shall conform to the disclosure requirements of paragraphs 1 to 9, inclusive, and paragraphs 12 and 13 of subdivision (a) of Section 2982 and Section 2984 1 and the provisions of subdivisions (f) and (g) of Section 2982 shall be applicable thereto

(*l*) "Regulation Z" means any rule, regulation or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U S C. 1601, et seq), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(m) "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either

(1) Calculated on the basis of a 365-day year and actual days

elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

(n) "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment.

SEC. 19 Section 2981 7 is added to the Civil Code, to read·

2981 7 All contracts entered into between a buyer and a seller on or after January 1, 1983, shall provide for the calculation of the finance charge contemplated by item (A) of paragraph (1) of subdivision (c) of Section 2982 on the simple-interest basis, if the date on which the final installment is due, according to the original terms of the contract, is more than 62 months after the date of the contract.

SEC 19.5 Section 2981.8 is added to the Civil Code, to read:

2981.8 No contract shall provide for a finance charge which is determined in part by the precomputed basis and in part by the simple-interest basis except for any finance charge permitted by subdivision (c) of Section 2982.8.

SEC 20. 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, if any, of an administrative finance charge.

9. The amount financed, which is the difference between items 7 and 8.

10. The finance charge (i) expressed as the annual percentage rate as defined in Regulation Z and (ii) expressed in dollars.

11. The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

12. 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.

13. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation.

14. (A) Where the contract includes a finance charge which is determined on the precomputed basis, a notice as set forth in either item (i) or (ii) in at least 8-point bold type if the contract is printed

(i) "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."

(ii) "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) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78's, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(B) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in a 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) You can prepay the full amount due under this agreement at any time. (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."

15. 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.

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 10 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(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) (1) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item 10 of subdivision (a) shall not exceed the greater of:

(A) One 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

(B) Twenty-five dollars ($25).

(2) If the finance charge or a portion thereof is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item 10 of subdivision (a) shall not exceed the greater of:

(A) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if subparagraph (A) of paragraph (1) were applicable to the contract; or

(B) (i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000)

(3) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 10 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivision (c) of Section 2982 8

(4) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (B) of paragraph (2), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (2). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract

(d) 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

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received

(3) Where the minimum finance charge provided by subparagraph (B) of paragraph (1) of subdivision (c) or subparagraph (B) of paragraph (2) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference

(4) 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 (d) of this section

(f) 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, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(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 disclosed in any manner, method, or 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).

(i) This section shall remain in effect only until January 1, 1981, and as of such date is repealed.

SEC. 20 5. Section 2982 is added to the Civil Code, 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, if any, of an administrative finance charge.

9. The amount financed, which is the difference between items 7 and 8

10. The finance charge (i) expressed as the annual percentage rate as defined in Regulation Z and (ii) expressed in dollars.

11. The number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

12. 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

13. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation

14. (A) Where the contract includes a finance charge which is determined on the precomputed basis, 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) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge Because the refund will be figured by the Rule of 78's, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this

agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(B) Where the contract includes a finance charge which is determined on the simple-interest basis, 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) You can prepay the full amount due under this agreement at any time (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 "

15 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

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 10 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates

(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) (1) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item 10 of subdivision (a) shall not exceed the greater of

(A) One 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

(B) Twenty-five dollars ($25)

(2) If the finance charge or a portion thereof is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item 10 of subdivision (a) shall not exceed the greater of

(A) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if subparagraph (A) of paragraph (1) were applicable to the contract, or

(B) (i) Twenty-five dollars ($25) if the unpaid balance does not

exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000)

(3) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 10 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivision (c) of Section 2982 8

(4) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (B) of paragraph (2), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (2) Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(d) 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

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4) The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time

balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) of paragraph (1) of subdivision (c) or subparagraph (B) of paragraph (2) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) 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 (d) of this section

(f) 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, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(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 disclosed in any manner, method, or 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)

(i) This section shall become operative January 1, 1981

SEC. 21. Section 2982.5 of the Civil Code is amended to read:

2982.5. (a) Nothing contained in this chapter shall be deemed to affect a loan, or the security therefor, between a purchaser of a motor vehicle and a supervised financial organization, other than the seller of the motor vehicle, all or a portion of which loan is used in connection with the purchase of a motor vehicle. As used herein "supervised financial organization" means a person organized, chartered, or holding a license or authorization certificate under a law of this state or the United States to make loans and subject to supervision by an official or agency of this state or the United States.

(b) Nothing in this chapter shall be deemed to prohibit the seller's assisting the buyer in obtaining a loan upon any security from any third party to be used as a part or all of the downpayment or any other payment on a conditional sale contract or purchase order; provided that the conditional sale contract sets forth on its face the amount of the loan, the finance charge, the total thereof, the number of installments scheduled to repay the loan and the amount of each such installment, that the buyer may be required to pledge security for the loan, which security must be mutually agreed to by the buyer and the lender and notice to the buyer in at least eight-point type that he is obligated for the installment payments on both the conditional sale contract and the loan The seller shall not provide any security or other guarantee of payment on such loan, nor shall such seller receive any commission or other remuneration for assisting the buyer to obtain such loan If the buyer obligates himself to purchase, or receives possession of, the motor vehicle prior to securing such loan, and if the buyer upon appropriate application for such loan is unable to secure such loan, on the conditions stated in the conditional sale contract, such conditional sale contract or purchase order shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand

(c) The proceeds of any such loan payable to the seller after the date of the contract but prior to the due date of the second payment otherwise scheduled thereunder shall not be subject to a finance charge and the amount thereof shall be set forth in the contract in accordance with the provisions of subdivision (f) of Section 2982.

SEC. 22 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 rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the motor vehicle, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed in paragraph 10 of subdivision (a) of Section 2982.

SEC 23 Section 2983 of the Civil Code is amended to read.

2983 If the seller, except as the result of an accidental or bona fide error in computation, violates any provision of subdivision (a), (c), or (d) of Section 2982, the conditional sale contract shall not be enforceable, except by a bona fide purchaser, assignee or pledgee for value or until after the violation is corrected as provided in Section 2984, and if the violation is not corrected the buyer may recover from the seller the total amount paid, pursuant to the terms of the contract, by the buyer to the seller or his assignee The amount recoverable for property traded in as all or part of the downpayment shall be equal to the agreed cash value of such property as the value appears on the conditional sale contract or the fair market value of such property as of the time the contract is made, whichever is greater

SEC. 24 Section 2983.1 of the Civil Code is amended to read·

2983 1 If the seller or holder of a conditional sale contract, except as the result of an accidental or bona fide error of computation, violates any provision of subdivision (e) of Section 2982, the buyer may recover from such person three times the amount of any finance charge paid to that person.

If a holder acquires a conditional sale contract without actual knowledge of the violation by the seller of subdivision (a), (c), or (d) of Section 2982, the contract shall be valid and enforceable by such

holder except (unless the violation is corrected as provided in Section 2984) the buyer is excused from payment of the unpaid finance charge

If a holder acquires a conditional sale contract with knowledge of such violation of subdivision (a), (c), or (d) of Section 2982, the conditional sale contract shall not be enforceable except by a bona fide purchaser, assignee or pledgee for value or unless the violation is corrected as provided in Section 2984, and if the violation is not corrected the buyer may recover from the person to whom payment was made the amounts specified in Section 2983.

When a conditional sale contract is not enforceable under Section 2983 or 2983 1, the buyer may elect to retain the motor vehicle and continue the contract in force or may, with reasonable diligence, elect to rescind the contract and return the motor vehicle. The value of the motor vehicle so returned shall be credited as restitution by the buyer without any decrease which results from the passage of time in the cash price of the motor vehicle as such price appears on the conditional sale contract

SEC 25 Section 2984.3 of the Civil Code is amended to read:

2984 3 Any acknowledgment by the buyer of delivery of a copy of a 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, shall be printed or written in size equal to at least 10-point bold type and, if contained in the contract, shall appear directly above the space reserved for the buyer's signature The buyer's written acknowledgment, conforming to the requirements of this section, of delivery of a completely filled-in copy of the contract, and a copy of such other documents shall be a rebuttable presumption of delivery in any action or proceeding by or against a third party without knowledge to the contrary when he acquired his interest in the contract If such third party furnishes the buyer a copy of such documents, or a notice containing items 1 to 11, inclusive, of subdivision (a) of Section 2982, and stating that the buyer shall notify such third party in writing within 30 days if a copy of such documents was not furnished, and no such notification is given, it shall be conclusively presumed in favor of such a third party that copies of such documents were furnished as required by this chapter

---

CHAPTER 806

An act to add Section 820 25 to the Government Code, relating to liability, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 820.25 is added to the Government Code, to read.

820.25 (a) For purposes of Section 820.2, the decision of a peace officer, as defined in Sections 830 1 and 830.2 of the Penal Code, or a state or local law enforcement official, to render assistance to a motorist who has not been involved in an accident or to leave the scene after rendering assistance, upon learning of a reasonably apparent emergency requiring his immediate attention elsewhere or upon instructions from a superior to assume duties elsewhere, shall be deemed an exercise of discretion.

(b) The provision in subdivision (a) shall not apply if the act or omission occurred pursuant to the performance of a ministerial duty. For purposes of this section, "ministerial duty" is defined as a plain and mandatory duty involving the execution of a set task and to be performed without the exercise of discretion.

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

A recent ruling by the appellate court has held that liability may attach to a state traffic officer who stops to assist a stranded motorist.

In such a situation, the officer would not be immunized from tort liability by Section 820.2 of the Government Code, which gives a public employee immunity from liability when an act or omission which causes injury results from an exercise of discretion, since the court found that while the initial decision to stop may be discretionary, the decision to leave is not To avoid liability, a traffic officer, or a state or local law enforcement official, would have to either not render assistance to motorists who are not involved in an accident or, having stopped to give assistance, remain at the scene even though more serious emergency situations may arise elsewhere in the meantime.

Therefore, in order that traffic officers, and state or local law enforcement officials, may have flexibility in assisting stranded motorists and in order that the state will no longer be required to pay damages on this theory of expanded liability, it is necessary that this act take effect immediately.

CHAPTER 807

An act to amend Section 42311 of the Health and Safety Code, relating to air pollution

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 42311 of the Health and Safety Code is amended to read

42311 (a) A district board may adopt, by regulation, a schedule of fees for each fiscal year, commencing with the 1979–80 fiscal year, to be paid for the issuance and renewal of permits. Such schedule of fees shall not exceed the estimated cost for such fiscal year of (1) evaluation and issuance of permits, (2) inspection, including source testing and surveillance, of sources for which a permit or permits have been issued, to the extent such inspection is for the purpose of determining whether such sources are in compliance with all applicable permit conditions and all applicable orders, rules, or regulations of the state board or of a district, adopted pursuant to this part, and (3) implementation and enforcement of permit terms and conditions In no event shall the estimated cost of the activities referred to in (1), (2), and (3) above exceed for any fiscal year the estimated cost of such activities to the district for the immediately preceding fiscal year, with an adjustment no greater than the change in the annual California Consumer Price Index, as determined pursuant to Section 2212 of the Revenue and Taxation Code, for the preceding year Any revenues received by the district pursuant to such fees, which exceed the cost of the activities referred to in (1), (2), and (3) above, during any fiscal year shall be carried over for expenditure in the subsequent fiscal year, and such schedule of fees shall be changed to reflect such carryover Every person applying for a permit, including, notwithstanding the provisions of Section 6103 of the Government Code, a person that is a publicly owned public utility, shall pay the fee required by the schedule.

(b) Except as provided in Section 42313, all such fees shall be paid to the district treasurer to the credit of the district

(c) This section shall not apply to the south coast district board which shall be governed by Section 40510

CHAPTER 808

An act to amend Section 1811 of the Welfare and Institutions Code, relating to juvenile court law

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 1811 of the Welfare and Institutions Code is amended to read·

1811 (a) Each county which intends to apply for funding under this article shall establish a county justice system advisory group, or may elect to substitute for the county justice system advisory group an existing governmental entity, provided that the existing governmental entity includes or is expanded to include the officials and representatives listed in subdivision (b). Such advisory group shall be responsible for preparing and forwarding to the board of supervisors a recommended application for funding.

(b) The county justice system advisory group shall be composed of the county chief probation officer, the county sheriff, the presiding judge of the superior court, the Chairperson of the Juvenile Justice Commission or the Delinquency Prevention Commission, the district attorney, the public defender, the county superintendent of schools, the county administrative officer or the equivalent thereof, two chiefs of police selected on the basis of city population, one of whom shall represent a city above the median population range and one below the median population range of cities in the county, one representative of a private agency which provides services to juvenile offenders, one representative of a private agency which provides services to adult offenders, and one public member, who is neither employed by nor who has ever been employed by a law enforcement agency, selected by the board of supervisors and one representative from each of three private community-based adult or juvenile assistance agencies involved in the prevention or treatment of delinquency or criminal activity, selected by the board of supervisors

(c) In a county lacking two chiefs of police, a substitute member who is a representative of city government shall be selected by the board of supervisors. In a county in which there are two chief probation officers, one of them shall be designated by the board of supervisors as a member of the advisory group The representatives of the private agencies providing services to juvenile and adult offenders shall be selected by the board of supervisors In a county in which there are chairpersons of both a Juvenile Justice Commission and a Delinquency Prevention Commission, one of them shall be selected by the board of supervisors In a county in which a position designated in this section does not exist, the board of supervisors shall select, to the extent possible, an equivalent substitute

(d) The chairperson of the county justice system advisory group shall be selected by its members Reasonable and necessary expenses incurred by the advisory group and its members in the performance

of its duties may be paid by the county, and any application for funding under this article may include provision for payment of such expenses.

(e) The county justice system advisory group shall assess community justice system needs, evaluate alternative programs for meeting the needs, and make written recommendations to the board of supervisors. One or more public hearings shall be conducted by the county justice system advisory group for purposes of receiving public testimony to assist it in its duties. The county justice system advisory group shall consider such testimony in its formulation of its written recommendations to the board of supervisors.

The board of supervisors shall conduct one or more public hearings to review and consider the county justice system advisory group's recommendations in their determination of the allocation of the county's subvention.

(f) Any application for funding under this article shall be approved by the board of supervisors prior to submission to the Department of the Youth Authority

(g) In the case where the city and county are a single entity, the appointive members of the county justice system advisory group shall be appointed by the mayor and subject to confirmation by the board of supervisors The county justice system advisory group shall submit its recommendations to the mayor and the board of supervisors, pursuant to subdivisions (a) and (e). Any application for funding pursuant to subdivision (f) shall be approved by the mayor and subject to approval by the board of supervisors prior to submission to the Department of the Youth Authority.

SEC 2. The Youth Authority shall, as a part of its annual report required pursuant to subdivision (a) of Section 1816 of the Welfare and Institutions Code, submit a report to the Legislature regarding the actions of the county boards of supervisors concerning the recommended applications prepared by the county justice system advisory groups pursuant to subdivision (a) of Section 1811 of the Welfare and Institutions Code for the funding years 1978–79 and 1979–80

CHAPTER 809

An act to add Section 224a to the Civil Code, relating to adoption.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 224a is added to the Civil Code, to read:

224a The State Department of Social Services shall adopt such rules and regulations as it determines are reasonably necessary to

assure that a parent or parents of Indian ancestry, seeking to relinquish a child for adoption, provide sufficient information to the licensed adoption agency or to the State Department of Social Services so that a certificate of degree of Indian blood can be otained from the Bureau of Indian Affairs. The State Department of Social Services shall immediately request a certificate of degree of Indian blood from the Bureau of Indian Affairs upon obtaining such information. A copy of all documents pertaining to the degree of Indian blood and tribal enrollment, including a copy of the certificate of degree of Indian blood, shall become a permanent record in the adoption files and shall be housed in a central location and made available to authorized personnel from the Bureau of Indian Affairs when required to determine the adoptee's eligibility to receive services or benefits because of the adoptee's status as an Indian This information shall be made available to the adopted person upon reaching the age of majority.

CHAPTER 810

An act to amend Sections 39515 and 39602 of, and to add Chapter 2.5 (commencing with Section 41650) to Part 4 of Division 26 of, the Health and Safety Code, relating to air pollution, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 39515 of the Health and Safety Code is amended to read.

39515 (a) The state board shall appoint an executive officer and may delegate such duties to the executive officer as the state board deems appropriate.

(b) The intention of the Legislature is hereby declared to be that the executive officer shall perform and discharge, under the direction and control of the state board, the powers, duties, purposes, functions, and jurisdiction vested in the state board and delegated to the executive officer by the state board.

(c) The state board shall, upon the receipt of a petition from any affected member of the public, affected district, or designated air quality planning agency, hold a public hearing to review any action taken by the executive officer relating to any of the following:

(1) Taking action pursuant to Section 40451 or 40465 or Sections 41503 to 41505, inclusive

(2) Making any order pursuant to Section 41507, 41602, or 41603.

(3) Taking action pursuant to Section 41650, 41651, or 41652.

SEC. 2. Section 39602 of the Health and Safety Code is amended to read:

39602. The state board is designated the air pollution control agency for all purposes set forth in federal law

The state board is designated as the state agency responsible for the preparation of the state implementation plan required by the Clean Air Act (42 U.S.C., Sec. 7401, et seq.) and, to this end, shall coordinate the activities of all districts necessary to comply with that act.

Notwithstanding any other provision of this division, the state implementation plan shall only include those provisions necessary to meet the requirements of the Clean Air Act

SEC. 3. Chapter 2.5 (commencing with Section 41650) is added to Part 4 of Division 26 of the Health and Safety Code, to read

CHAPTER 2.5. NONATTAINMENT AREA PLANS

41650 (a) The state board shall adopt the nonattainment area plan approved by a designated air quality planning agency as part of the state implementation plan, unless the state board finds, after a public hearing, that the nonattainment area plan will not meet the requirements of the Clean Air Act (42 U.S.C Sec 7401 et seq)

(b) The primary responsibility for determining whether a control measure is reasonably available shall be vested in the public agency which has the primary responsibility for implementation of that control measure. The determination of reasonably available control measure by the public agency responsible for implementation shall be conclusive, unless the state board finds after public hearing that such determination will not meet the requirements of the Clean Air Act.

41651. In addition to any other statutory requirements, at the public hearing held pursuant to Section 41650, the districts included, in whole or in part, within the nonattainment area, the designated air quality planning agency, and members of the public shall have the opportunity to present oral and written evidence.

In addition, the districts and the agency shall have the right to question and solicit testimony of qualified representatives of the state board staff on the matter being considered. The state board may, by an affirmative vote of four members, place reasonable limits on the right to question and solicit testimony of qualified representatives of the state board staff.

41652 If, after the public hearing, the state board finds that the nonattainment area plan approved by the designated air quality planning agencies does not comply with the requirements of the Clean Air Act (42 U S C Sec. 7401 et seq.), the state board may adopt such revisions as necessary to comply with such requirements, except as otherwise provided in Article 5.5 (commencing with Section 53098) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code.

In taking such action, the state board shall adopt written findings which set forth the basis for its determination that the nonattainment area plan does not comply with the requirements of the Clean Air Act The findings shall specify the facts relied upon by the state board and shall include a statement of reasons why the proposed revisions are necessary to comply with the requirements of the Clean Air Act

SEC. 4. The sum of fifty thousand eight hundred seventy-five dollars ($50,875) from the General Fund and the sum of forty-one thousand six hundred twenty-five dollars ($41,625) from the Motor Vehicle Account in the State Transportation Fund are hereby appropriated to the State Air Resources Board for expenditure during the 1979–80 fiscal year for the purposes of carrying out the provisions 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 effectuate the intent and purpose of the Clean Air Act, to ensure that economic sanctions are not imposed by the federal government, and to have the State Air Resources Board itself, rather than its executive officer, perform specified functions of the state board, it is necessary that this act take effect immediately

---

CHAPTER 811

An act to amend Sections 14103, 14403, 14410, 14450, 14454, 14456, 14502, 14551, 14552, 14553, 14554, 14555, 14602, 14750, 14751, 14810, 14853, 14858, 14953, 15100, and 15355 of the Financial Code, relating to credit unions.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 14103 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read:

14103. The bylaws shall prescribe the manner in which the business of the credit union shall be conducted with reference to the following matters:

(a) The purpose of the credit union

(b) The qualification for membership.

(c) Determination of the month, time and place of the annual meeting; the manner of conducting meetings; the method by which members shall be notified of meetings; and the number of members which shall constitute a quorum.

(d) The number of directors necessary to constitute a quorum, and the powers and duties of officers elected by the directors.

(e) The membership, powers, and duties of the supervisory committee.

(f) The membership, powers, and duties of the credit committee

(g) The conditions upon which shares may be issued, paid for, transferred and withdrawn.

(h) The charges, if any, which may be imposed for failure to punctually meet obligations to the credit union.

(i) The conditions upon which certificates may be issued and withdrawn.

(j) The manner in which the funds of the credit union shall be employed

(k) The conditions upon which loans may be made and repaid

(*l*) The maximum rate of interest that may be charged upon loans

(m) The method of receipting for money paid on account of shares, certificates or loans.

(n) The manner in which the guaranty fund shall be accumulated

(o) The manner in which dividends may be determined and paid to members.

(p) The manner in which the bylaws may be amended

SEC 2 Section 14403 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read

14403 Every credit union may purchase and hold, either individually or jointly with other credit unions or affiliated organizations, furniture, fixtures, vaults, and other personal property necessary or proper to carry on its business, and to equip or furnish any space in any building purchased or held individually or jointly with other credit unions or affiliated organizations under authorization of Section 14402, whether occupied by the credit union or leased to the public. The personal property may be sold, if all the holders of the property join in its sale.

SEC. 3 Section 14410 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read:

14410. No member of the board of directors, supervisory committee, or credit committee shall receive any compensation for his services as such, but they may be provided with reasonable health, accident and similar insurance under such terms and conditions as specified by the commissioner in the credit union regulations provided, that such insurance protection shall exclude life insurance, shall be limited to areas of risk, including accidental death and dismemberment, to which the official is exposed by virtue of carrying out the duties or responsibilities of his or her credit union position and shall cease immediately when the insured person leaves office without providing residual benefits other than from pending claims, if any A director or committee member may be reimbursed for actual expenses incurred in the performance of his duties

SEC 4 Section 14450 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read·

14450 The credit union shall be directed by a board consisting of

an odd number of directors, at least five in number, each of whom shall be a member of the credit union in his own right, to be elected by the members at their annual meeting

SEC 5. Section 14454 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read·

14454 The directors shall hold an annual meeting within 10 days after the annual meeting of members for the purpose of electing the officers of the credit union as prescribed in Sections 14500 and 14501.

SEC 6. Section 14456 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read:

14456. Unless the bylaws expressly reserve any or all of the following duties to the members, 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 determine from time to time the interest rate on loans and to authorize the payment of interest refunds to borrowing members.

(d) To fix the maximum number of shares which may be held by, and the maximum amount which may be lent to, any one member.

(e) To declare dividends on shares in the manner and form provided in the bylaws and to determine the interest rate or rates which will be paid on certificates for funds

(f) To recommend amendments to the bylaws.

(g) To fill vacancies in the board of directors or credit committee, and to 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 members to determine whether to affirm such suspension and vacate the office, or to reinstate such member or members

(h) To direct the deposit or investment of funds, except loans to members, and to perform such other duties as the bylaws may prescribe.

(i) 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 7 Section 14502 of the Financial Code, as added by Chapter

112 of the Statutes of 1979, is amended to read.

14502. The powers and duties of the officers of any credit union are as prescribed in the bylaws.

SEC. 8. Section 14551 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read.

14551. The supervisory committee may:

(a) Suspend at any time by unanimous vote, at a meeting called for that purpose, the credit committee, or any member thereof, or any member of the board of directors, or any officer.

(b) By a majority vote call a meeting of the members to consider any violation of this division or the bylaws, or any practices of the credit union which, in the opinion of the committee, are unsafe or unauthorized.

(c) Inspect the securities, cash and accounts of the credit union and supervise the acts of its board of directors, officers and credit committee.

(d) Fill vacancies in the supervisory committee until the next annual meeting of the members

(e) Declare vacant any office of a member of the supervisory committee if such member is absent from three consecutive regular meetings of the supervisory committee unless excused therefrom or is completely inactive as a member of the supervisory committee for a consecutive 12 months' period

SEC. 9. Section 14552 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read.

14552. The supervisory committee shall, within seven days after suspension of any or all members of the credit committee, or any member of the board of directors, or any other officer, cause notice of a special meeting to be given to the members to take such action regarding the suspension as the members deem necessary.

SEC. 10. Section 14553 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read

14553. The supervisory committee shall at least once each year make or cause to be made an audit of the books and records and an examination of the business and affairs of the credit union. The supervisory committee shall make a full report of the assets and liabilities, receipts and disbursements of the credit union to the board of directors Such reports shall be read at the annual meeting of members and filed with the records of the credit union.

SEC. 11. Section 14555 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read:

14555. The commissioner may, after investigation and finding that the supervisory committee is not performing in conformance with this article, declare all offices of the supervisory committee of a credit union vacant and shall direct the board of directors of the credit union to call a special meeting of the members for the purpose of electing a new supervisory committee to serve until the next regular annual meeting.

SEC 12 Section 14602 of the Financial Code, as added by

Chapter 112 of the Statutes of 1979, is amended to read:

14602. No credit union shall make any loan or extension of credit without the written approval of a majority of the members of the credit committee or of a loan officer appointed as provided in this section. The credit committee may, with the approval of the board of directors, appoint one or more loan officers who shall be authorized to approve loan applications within the limits set by the credit committee, but in no event to exceed the sum of one thousand dollars ($1,000) plus the unpledged shares of the borrower for any one loan if the paid-in and unimpaired capital and surplus of the credit union are less than five hundred thousand dollars ($500,000). Loan officers of credit unions with paid-in and unimpaired capital and surplus of five hundred thousand dollars ($500,000) or more may approve loan applications within the limits set by the credit committee, but in no event to exceed the sum of five thousand dollars ($5,000) plus the unpledged shares of the borrower for any one loan. Loan officers of credit unions with paid-in and unimpaired capital and surplus of one million dollars ($1,000,000) but less than five million dollars ($5,000,000) may approve loan applications within the limits set by the credit committee, but in no event in excess of the sum of fifteen thousand dollars ($15,000) plus the unpledged shares of the borrower for any one loan Loan officers of credit unions with paid-in and unimpaired capital and surplus of five million dollars ($5,000,000) or more may approve loan applications within the limits set by the credit committee, but in no event in excess of the sum of twenty-five thousand dollars ($25,000) plus the unpledged shares of the borrower for any one loan. Such loan officer must be a member of the credit union and may, but need not be, a member of the credit committee or an officer or director of the credit union. Such loan officers shall not also have the power to approve membership applications or to approve any extension agreement of any delinquent loan or the refinancing of any delinquent loan except as prescribed in regulations promulgated by the commissioner. The credit committee shall be provided with a record of each loan approved or not approved by any loan officer within seven days of such approval or disapproval

SEC. 13. Section 14750 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read

14750 Any officer, director, member of a committee of a credit union, or loan officer appointed pursuant to Section 14602 who knowingly permits a loan to be made or participates in a loan to a nonmember of the credit union, is guilty of a misdemeanor

SEC. 14 Section 14751 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read

14751. Any officer, director, member of a committee, or loan officer appointed pursuant to Section 14602 who violates Section 14750 is primarily liable to the credit union for the amount of the loan. The illegality of the loan is no defense in an action by the credit union to recover the amount of the loan

SEC. 15 Section 14810 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read

14810. The bylaws may provide that any action which may be taken at a meeting of the members may be taken without a meeting by submitting the matter to all members who would be entitled to vote upon such action at a meeting for their written vote Any such bylaw shall require that each matter submitted to the members for their written vote shall be certified by the president and secretary as to the manner by which the matter was submitted and the result of the voting.

No member shall vote by proxy upon any matter referred to all members for their written vote pursuant to this section, and the powers of any previously issued or outstanding valid proxy are suspended as to any such action

SEC 16 Section 14853 of the Financial Code, as added by Assembly Bill No 355 of the 1979–80 Regular Session, is amended to read.

14853 A credit union may issue shares or certificates for funds to a minor of any age or maintain any other account authorized for credit union members for a minor, and receive payments thereon by or for such minor. Such minor is entitled to withdraw, transfer, or pledge any shares or certificates or other moneys owned by him and to receive from the credit union all dividends, interest, or other money due thereon in the same manner and subject to the same conditions as an adult The receipt or acquittance of a minor whose parent or guardian has consented to the account, whether before or after any transaction therein, constitutes a valid release and discharge of the credit union for the payment of dividends, interest, or other money due to such minors.

SEC. 16 5. Section 14858 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read

14858 Every credit union shall apply for and obtain insurance as provided for by Title II of the Federal Credit Union Act (Title 12 U S C, Sec 1781 and following), or alternatively, a form of comparable insurance acceptable to the commissioner, for the purpose of insuring its members' share accounts, by January 1, 1981 In seeking and retaining such insurance, a credit union may do all things and assume and discharge all obligations required of it when not in conflict with the laws of this state Credit unions who have not obtained insurance by January 1, 1981, shall commence with orderly liquidation or merger proceedings, subject to the provisions of this division

SEC 17. Section 14953 of the Financial Code, as added by Assembly Bill No 355 of the 1979–80 Regular Session, is amended to read

14953 (a) Any loan in excess of the unsecured loan limit set forth in Section 15100 of this article shall be secured either (1) by real or personal property to the extent that the loan exceeds such limit, or (2) in the manner provided in Section 14955 of this article

(b) If the security offered is an endorsed note as provided in subdivision (a) of Section 14955, a signed and dated financial statement shall be taken from each person who endorses the note and the sufficiency of the financial responsibility of every such endorser shall be verified by a majority of the credit committee Loans secured by the signatures of a borrower and endorser or endorsers shall not exceed the amount that may be loaned to the borrower without security pursuant to Section 15100, plus an equivalent amount for each endorser, plus the amount of shares or certificates for funds pledged to secure the obligation

SEC. 18 Section 15100 of the Financial Code, as added by Chapter 112 of the Statutes of 1979, is amended to read·

15100. No credit union shall make any loan without security that will result in a member being obligated to the credit union in excess of the amount indicated in the following schedule:

Unimpaired capital and surplus	*Maximum unsecured obligation to credit union per member*
$100,000 or less	$1,000
$100,000 to $250,000	1% of unimpaired capital and surplus
$250,000 to $1,000,000	$2,500 plus ¼ of 1% of unimpaired capital and surplus in excess of $250,000
Over $1,000,000	$4,375 plus 1/10 of 1% of unimpaired capital and surplus in excess of $1,000,000 up to a maximum of $15,000

SEC 19 Section 15355 of the Financial Code, as added by Assembly Bill No. 355 of the 1979–80 Regular Session, is amended to read·

15355. After an affirmative vote as provided in Section 15350, the federal credit union shall take or cause to be taken such action in the manner prescribed and authorized by this division as shall make it a credit union of this state The directors shall file the documents and take such proceedings as are required by this division in the case of the original incorporation of a credit union

CHAPTER 812

An act to amend Sections 4652 and 4799 13 of the Public Resources Code, relating to forestry

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 4652 of the Public Resources Code is amended to read:

4652 Receipts from the sales of forest products shall be deposited monthly with the State Treasurer in the Forest Resources Improvement Fund The Controller shall keep a record of accounts of such receipts separately.

SEC 2 Section 4799.13 of the Public Resources Code is amended to read

4799 13 (a) There is hereby created in the State Treasury, the Forest Resources Improvement Fund. The moneys in the Forest Resources Improvement Fund may be expended, when appropriated therefor by the Legislature, for the purposes of this part, and for the purposes of reimbursing the General Fund for the cost of operation of the state forests administered by the director pursuant to Section 4646

(b) The Forest Resources Improvement Fund shall be the depository for all revenue derived from the repayment of loans made or interest received pursuant to Chapter 1 (commencing with Section 4790) of this part, and the receipts from the sale of forest products, as defined in Section 4638, from the state forests. Ten percent of the net state forest receipts from the sale of forest products, after the General Fund is reimbursed for costs of operating the state forests, shall be available, when appropriated therefor by the Legislature, for urban forestry programs pursuant to Chapter 2 (commencing with Section 4799 06) of this part.

(c) The director is authorized to accept grants and donations of equipment, seedlings, labor, materials, or funds from any source for the purpose of supporting or facilitating activities undertaken pursuant to the provisions of this part. Any funds received shall be deposited by the director in the Forest Resources Improvement Fund.

(d) Proposed expenditures by the department of moneys from the Forest Resources Improvement Fund shall be included as separate items in the Budget Bill for each fiscal year for consideration by the Legislature Such appropriations shall be subject to all of the limitations contained in the Budget Bill and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.

96—3548

CHAPTER 813

An act to amend Sections 602 and 2191.3 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 602 of the Revenue and Taxation Code is amended to read:

602. This local roll shall show:

(a) The full and complete name and address, if known, of the assessee.

(b) Land, by legal description

(c) A description of possessory interests sufficient to identify them.

(d) Personal property. A failure to enumerate personal property in detail does not invalidate the assessment.

(e) The assessed value of real estate, except improvements.

(f) The assessed value of improvements on the real estate.

(g) The assessed value of improvements assessed to any person other than the owner of the land.

(h) The assessed value of possessory interests.

(i) The assessed value of personal property, other than intangibles.

(j) The revenue district in which each piece of property assessed is situated.

(k) The total taxable value of all property assessed, exclusive of intangibles.

(*l*) Any other things required by the board.

SEC. 2. Section 2191.3 of the Revenue and Taxation Code is amended to read:

2191.3. Where there is a tax on:

(a) (1) A possessory interest secured only by a lien on such taxed possessory interest, or on

(2) Goods in transit, not secured by any lien on real property, or on

(3) Improvements that have been assessed pursuant to the provisions of Section 2188.2, or on

(4) Unsecured property not secured by a lien on any real property, and such tax has become delinquent; or where a tax has been:

(b) (1) Entered on the unsecured roll pursuant to Section 531.2 or 4836.5 of this code, or

(2) Transferred to the unsecured roll pursuant to Section 4831 of this code:

The tax collector may file for record without fee in the office of the

county recorder of any county a certificate specifying the amount of the respective tax due, interest and penalties due, the name, federal social security number, if known, and last known address of the assessee liable for the amount, and the fact, if such be the fact, that all provisions of this division in the computation and levy of the tax have been complied with. The procedure authorized by this section is cumulative to the procedure provided by Sections 2951 and 3003.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

SEC. 4 This act shall become operative July 1, 1980.

CHAPTER 814

An act to amend Section 69104 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 69104 of the Government Code is amended to read·

69104 The Court of Appeal for the Fourth Appellate District consists of two divisions. One division shall hold its regular sessions at San Diego and shall have five judges and the other shall hold its regular sessions at San Bernardino and shall have five judges.

SEC 2 There is hereby appropriated from the General Fund sixty-four thousand nine hundred forty-two dollars ($64,942) in augmentation of Item 17 of the Budget Act of 1979 for purposes of this act.

CHAPTER 815

An act to add Chapter 2 5 (commencing with Section 5675) to Part 2 of Division 5 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Chapter 2.5 (commencing with Section 5675) is added to Part 2 of Division 5 of the Welfare and Institutions Code, to read:

CHAPTER 2.5. CASE MANAGEMENT SYSTEM

5675. The Legislature finds that the cost of state psychiatric hospitalization and psychiatric hospitals based in the community is exorbitantly high. It is the intent of the Legislature, to encourage the development of case management systems for mentally disordered clients who have the highest hospital readmission rate in order to establish a more cost efficient method of reducing hospitalization. It is further the intent of the Legislature, that case management systems in the State of California be developed in accordance with the principles of this chapter and the guidelines developed pursuant to this chapter.

5676. By April 1, 1980, the department shall define the target population with high hospital readmissions to be served by the case management system and shall also develop guidelines to assist the county in implementing the requirements for a case management system specified in Section 5677. Such guidelines shall allow each county the flexibility to design a system specific to the nature of the community and the needs of clients.

5677. Case management systems developed under this chapter shall, at the minimum, include all of the following:

(a) Prevention of unnecessary hospitalization of clients and provision for alternative treatment in the community in order to promote the highest possible level of rehabilitation and independent living compatible with the client's abilities and community resources.

(b) A case manager who shall do all of the following:

(1) Serve as a coordinator to assure the cooperation of the various elements of the system and to act as an active advocate for the clients in the system.

(2) Assure that each client receives the appropriate type of service, including, but not limited to, an administrative structure under which the case manager shall upon request be able to secure appropriate and timely services for the case management client

(3) Meet regularly with clients and work closely with program staff.

(4) Develop a plan for each client, the elements of which include assessment of mental status with appropriate reassessment, economic need, vocational potential, physical health, needs for resocialization, type of living arrangement each client needs, and

appropriate individual treatment.

(5) Involve each client in his or her own treatment and service plan

(c) Provisions for safeguarding the client's property, legal and civil rights.

(d) Coordination with local agencies and community resources to avoid duplication of services and planning.

(e) Establishment of specific linkages with local agencies and communities resources to maximize the effectiveness of the case management system.

(f) Criteria for the termination of case management services to a case management client.

(g) Annual evaluation of the case management system for compliance with the provisions of this chapter.

5678. By July 1, 1980, the county Short-Doyle plan shall include, pursuant to Section 5651: (a) a statement of need for case management services as defined in this chapter, (b) a plan to provide such services, (c) the cost of implementing such services within the availability of existing resources, and (d) a date for implementation of the case management plan.

SEC. 2 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that such agency or district may pursue any other remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 816

An act to amend Sections 17052.5 and 23601 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5 (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in subdivision (i)), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including

installation charges, monthly lease payments, and costs associated with the acquisition of a solar easement as specified in paragraph (7), but excluding interest charges) incurred by the taxpayer of any solar energy system on premises in California which are owned by the taxpayer at the time of installation Such credit shall not exceed three thousand dollars ($3,000) The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(3) With regard to premises in California which are owned by the taxpayer, other than single-family dwellings, on which the cost (including installation charges but excluding interest charges and costs associated with the acquisition of an easement) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system

(4) If a solar energy system serves two or more single-family dwellings, the owners of the dwellings shall be eligible to receive the credit in proportion to the number of single-family dwellings served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of single-family dwellings served by the system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit Qualified energy conservation measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system Eligible conservation measures applied in

conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who partially own and partially lease a solar energy system from a municipal utility shall receive a tax credit equal to 55 percent of the purchased portion of the solar energy system (including installation charges, but excluding interest charges) and the principal recovery portion of the lease payments (excluding the interest charges) for the first three years of operation or until the solar tax credit allowance terminates, whichever occurs first. Such credit shall not exceed three thousand dollars ($3,000) In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year As used in this section, "principal recovery portion" means the cost incurred by the public utility in acquiring the solar energy system. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(7) The compensation paid to the owner of burdened property in connection with the acquisition of a solar easement as defined in Section 801.5 of the Civil Code, and the fees for the recording of such an easement shall be considered part of solar energy systems, and shall be eligible for the tax credit.

(8) The basis amount of any solar energy system eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis The basis adjustment shall be made for the taxable year for which the credit is allowed.

(d) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part

(f) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until such credit is used. The credit shall be applied first to the earliest years possible.

(g) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(h) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (f).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(i) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Net tax" means the tax imposed under either Section 17041 or 17048 minus all credits except the credits provided by Section 17061, (relating to excess state disability insurance withheld), Section 18555.1, (relating to income tax withheld), and Section 17053.5, (relating to the renters' credit).

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises.

(4) "Premises" means land, buildings, or mobilehomes.

(5) "Single-family dwelling" means a building used for residential purposes, and includes individual units of a condominium, cooperative or other multiple dwelling unit.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating;

(ii) Space conditioning;

(iii) Production of electricity;

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the collection, transfer, distribution, storage and control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, and distribution of solar energy for heating or cooling

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, and distribution of solar energy for heating or cooling

(10) "Semipassive thermal system" means a system which utilizes the structure of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy for heating or cooling.

SEC 2. Section 23601 of the Revenue and Taxation Code is amended to read·

23601. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 55 percent of the cost (including installation charges and monthly payments but excluding interest charges) incurred by the taxpayer of any solar energy systems on premises in California which are owned by the taxpayer at the time of installation. Such credit shall not exceed three thousand dollars ($3,000). The owner of the premises on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new homes may elect not to claim the solar energy tax credit for any or all systems installed on new homes If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer

The solar energy tax credit shall be claimed in the state return for the income year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new home on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the home.

(3) With regard to premises in California which are owned by the taxpayer, other than a single-family dwelling, on which the cost (including installation charges but excluding interest charges, and costs associated with the acquisition of an easement) exceeds twelve thousand dollars ($12,000), the amount of the credit allowed by this section shall be 25 percent of the cost of the solar energy system.

(4) If a solar energy system serves two or more single-family dwellings, the owners of the dwellings shall be eligible to receive the credit in proportion to the number of single-family dwellings served. The amount of the credit shall be determined by dividing the cost (including installation charges but excluding interest charges) of the solar energy system by the number of single-family dwellings served by the system, and applying the formula described in either paragraph (2) or (3) to the per dwelling cost

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the installations of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who partially own and partially lease a solar energy system from a municipal utility shall receive a tax credit equal to 55 percent of the purchased portion of the solar energy system (including installation charges, but excluding interest charges); and the principal recovery portion of the lease payments (excluding the

interest charges) for the first three years of operation or until the solar tax credit allowance terminates, whichever occurs first. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. As used in this section, "principal recovery portion" means the cost incurred by the municipal utility in acquiring the solar energy system. "Principal recovery portion" does not include interest charges, sales taxes, use taxes, or maintenance expenses.

(7) The basis amount of any solar energy system eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(b) The credit for such cost shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(c) The basis of any system for which a credit is allowed shall either be reduced to its salvage value at the end of its useful life, or reduced by the amount of the credit, whichever results in the lesser basis. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(d) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until such credit is used. The credit shall be applied first to the earliest years possible

(e) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(f) (1) If federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (d).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of solar energy systems, then to the extent such credit is allowed or allowable for a solar energy system as defined in this section, the state credit provided in paragraph (3) of subdivision (a) shall be reduced by the amount of

such federal credit.

(g) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Single-family dwelling" means a building used for residential purposes, and includes individual units of a condominium, cooperative or other multiple dwelling unit.

(5) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Domestic, recreational, therapeutic, or service water heating,

(ii) Space conditioning;

(iii) Production of electricity,

(iv) Process heat;

(v) Solar mechanical energy; and

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(6) "Solar device" means the equipment associated with the collection, transfer, distribution, storage and control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(7) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, and distribution of solar energy for heating or cooling

(8) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living space to provide for collection, storage, and distribution of solar energy for heating or cooling

(9) "Semipassive thermal system" means a system which utilizes the structure of a building and is augmented by mechanical components to provide for collection, storage, and distribution of solar energy for heating or cooling

SEC. 3. The provisions of Section 1 and Section 2 of this act shall have no force or effect in the computation of taxes for taxable years and income years which begin after December 31, 1980, provided, however, that any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law

immediately prior to January 1, 1981.

Section 1 and Section 2 of this act shall remain in effect only until January 1, 1981, and as of such date are repealed, unless a later enacted statute, which is chaptered before such 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, the provisions of this act shall be applied in the computation of taxes for taxable years and income years beginning after December 31, 1978.

CHAPTER 817

An act to amend Sections 311, 312, 313, and 315 of, to amend and renumber Sections 318 and 319 of, to add Sections 317.5, 318, 318.5, 319, and 319.5 to, and to repeal Sections 316 and 317 of, the Health and Safety Code, relating to health.

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1. Section 311 of the Health and Safety Code is amended to read

311. The State Department of Health Services may conduct a statewide program for providing nutritional food supplements to low-income pregnant women, low-income postpartum and lactating women, and low-income infants and children under five years of age, who have been determined to be at nutritional risk by a health professional, based on criteria established by the state department. Any program established pursuant to this section shall comply with all the provisions of this article

SEC 2. Section 312 of the Health and Safety Code is amended to read:

312. As used in this article, the following definitions shall apply:

(a) "Health professional" means a physician and surgeon, registered nurse, nutritionist, dietitian, or state or local medically trained health official, who is competent to professionally evaluate nutritional need and to authorize supplemental foods, as determined by the state department.

(b) "Low income" means such income, as determined by the local agencies participating in the program authorized by this article, based on criteria established by the state department in accordance with the intent and purposes of this article.

(c) "Recipient" means low-income pregnant women, low-income postpartum and lactating women, and low-income infants and children under five years of age, who are determined to be at

nutritional risk by a health professional, based on criteria established by the state department.

SEC. 3 Section 313 of the Health and Safety Code is amended to read

313 The department, if it establishes the program authorized by Section 311, shall.

(a) Establish guidelines to determine resource allocation giving consideration to an area's nutritional need.

(b) Designate the counties within which a program will be conducted, with the approval of such counties

(c) Establish the minimum nutritional requirements for recipients

(d) Designate specific supplemental foods to meet the minimum nutritional requirements for recipients.

(e) Develop and maintain a system for the delivery of supplemental foods to recipients through the distribution of supplemental foods designated in subdivision (d) and nutrition coupons when other methods of delivery are impractical.

(f) Provide for the distribution of the nutrition coupons by clinics, hospitals, licensed medical professionals, and others in the medical profession who offer care or treatment to recipients.

(g) Seek federal funds, as well as funds from public or private organizations or agencies, to carry out the provisions of this article

(h) Establish guidelines and criteria to be used by participating local agencies, when determining recipient eligibility, which require, in addition to a recipient being a low-income pregnant woman, or low-income postpartum and lactating woman, or low-income infant or child under five years of age, that such recipient be at nutritional risk A health professional on the staff of the local agency shall determine if a person is at nutritional risk through a medical or nutritional assessment This determination may be based on referral data submitted by a health professional not on the staff of the local agency. The person's height or length and weight shall be measured, and hematological test for anemia such as a hemoglobin or hematocrit test shall be performed. However, such tests shall not be required for infants under six months of age In addition, the blood test shall not be required for children who were determined to be within the normal range at their last program certification However, the blood test shall be performed on such children at least once a year. A breastfeeding woman may be certified if the child she is breastfeeding is determined to be at nutritional risk and the woman meets the income eligibility criteria

(i) Operate the program as an adjunct to existing health services.

SEC. 4 Section 315 of the Health and Safety Code is amended to read.

315 Coupons in an amount sufficient to meet the nutritional needs of a recipient for one month shall be granted to a recipient by facilities and persons referred to in Section 313 upon the written finding of nutritional need by the recipient's physician or other

health professional.

SEC. 5. Section 316 of the Health and Safety Code is repealed.

SEC. 6. Section 317 of the Health and Safety Code is repealed.

SEC. 7. Section 318 of the Health and Safety Code is amended and renumbered to read.

316. The state department may, if it establishes the program authorized by Section 311, investigate the feasibility of contracting with one or more banks in the area served by the program for the redemption of nutrition coupons.

SEC 8. Section 319 of the Health and Safety Code is amended and renumbered to read:

317 If the state department undertakes the program established by Section 311, it may collect data to determine the need for and the continuation of a supplemental nutritional program for recipients under this article.

SEC. 9. Section 317.5 is added to the Health and Safety Code, to read.

317.5 The state department shall authorize retail food vendors, by written agreement, to accept nutritional coupons, as specified in Section 315, and shall ensure that at a minimum the vendor shall.

(a) Redeem coupons only from persons bearing appropriate identification provided by the state department

(b) Redeem coupons for only those foods specified thereon.

(c) Redeem coupons at an amount which is the same or lesser than that charged other customers for identical foods.

(d) Redeem and deposit coupons during specified valid periods.

SEC 10 Section 318 is added to the Health and Safety Code, to read:

318. The state department shall inform the retail food vendors of and include in the written agreement with such vendors, guidelines consistent with Section 317.5 and shall print on each coupon the following:

(a) Specific foods, and quantities thereof, for which the coupon may be redeemed.

(b) The valid period of the coupon.

(c) The maximum value for which the coupon may be redeemed.

SEC. 11. Section 318.5 is added to the Health and Safety Code, to read.

318.5. (a) Retail food vendors or any other persons who knowingly redeem coupons from unauthorized individuals or who redeem coupons and provide anything of value other than the specified foods or who redeem coupons in excess of the price charged other customers for identical foods shall be subject to a civil action and if the court finds that such vendors or persons committed the acts described in this section it shall assess a civil penalty against such vendor or person of five hundred dollars ($500).

(b) The Attorney General or any district attorney or any city attorney shall begin the appropriate proceedings in the proper court with respect to any violation of subdivision (a) for which the state

department files a complaint, depending upon which such person the department files such complaint with.

(c) Any civil penalty which is assessed pursuant to subdivision (a) shall be paid into the General Fund of the State Treasury.

SEC. 12. Section 319 is added to the Health and Safety Code, to read:

319. Any officer, employee, or agent of the state department may enter the premises of any contract retail food vendor to verify food prices or to witness or investigate procedures, or to otherwise determine compliance of such vendor with the provisions of this article

SEC. 13. Section 319.5 is added to the Health and Safety Code, to read.

319 5. The state department, if it establishes the program authorized by Section 311, shall submit a report to the Legislature on or before March 1, 1980, describing the components of, and the participation in, the nutritional food supplement program

SEC. 14. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 818

An act to amend Sections 27101, 27216, and 27217 of, to repeal Section 27211 5 of, and to repeal and add Sections 27212, 27214, and 27215 of, the Elections Code, relating to recall elections

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 Section 27101 of the Elections Code is amended to read.

27101. Unless and until it is otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of registered voters Each section of a recall petition shall be filed with the clerk of the county in which it was circulated. Each section of the petition shall be filed by the proponents or by any person or persons authorized, in writing, by a proponent Thirty days after a recall has been initiated, and every 30 days thereafter, the clerk shall determine

from the records of registration what number of registered voters have signed recall petitions. The said clerk, upon the completion of each examination, shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and submit said petition, except as to the signatures appended thereto, to the Secretary of State and file a copy of said certificate in his office

SEC. 2 Section 27211 5 of the Elections Code is repealed.

SEC 3. Section 27212 of the Elections Code is repealed.

SEC. 4 Section 27212 is added to the Elections Code, to read:

27212. The petition shall be filed by the proponents, or by any person or persons authorized, in writing, by a proponent. All sections of the petition shall be filed at the same time.

When the petition is presented for filing, the clerk shall determine the total number of signatures affixed to the petition If from this examination, the clerk determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the clerk shall accept the petition for filing. The petition shall be deemed as filed on that date. Any sections of the petition, not so filed, shall be void for all purposes. If, from the clerk's examination, the clerk determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, the petition shall not be filed and the proponents shall not be permitted to file, supplemental petitions Any petition not accepted for filing shall be returned to the proponents.

SEC 5 Section 27214 of the Elections Code is repealed.

SEC. 6 Section 27214 is added to the Elections Code, to read

27214 Except as provided in Section 27215, within 30 days from the date of filing of the petition, the clerk shall examine the petition, and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters A certificate showing the results of this examination shall be attached to the petition

In determining the number of valid signatures, the clerk may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

The clerk shall notify the proponents of the petition as to the sufficiency or insufficiency of the petition

If the petition is found insufficient, it may be supplemented within 10 days of the date of certificate by filing additional petition sections, identical to the petition originally filed except as to signatures and matters required to be affixed by the signers Within 10 days after the supplemental petition sections are filed, the clerk shall make a certificate showing whether or not the petition, as supplemented, is sufficient The failure to secure sufficient signatures, shall not preclude the filing of a new petition on the same subject, at a later date

If the petition is found sufficient, the clerk shall certify the results of the examination to the governing board at the next regular meeting of the board

SEC. 7. Section 27215 of the Elections Code is repealed.

SEC. 8 Section 27215 is added to the Elections Code, to read:

27215 (a) Within 30 days from the date of filing of the petition, if, from the examination of petitions pursuant to Section 27214, more than 500 signatures have been signed on the petition, the clerk may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the clerk shall be given an equal opportunity to be included in the sample. Such a random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 90 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the clerk shall examine and verify each signature filed

(c) In determining from the records of registration what number of valid signatures are signed on the petition, the clerk may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(d) The clerk shall attach to the petition, a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition

(e) If the petition is found insufficient, no action shall be taken on the petition However, the failure to secure sufficient signatures shall not preclude the filing later of an entirely new petition to the same effect

(f) If the petition is found to be sufficient, the clerk shall certify the results of the examination to the governing body at the next regular meeting of the board.

SEC 9 Section 27216 of the Elections Code is amended to read:

27216. If the certificate shows that the petition is insufficient, no action shall be taken on it, but the petition shall remain on file.

SEC 10 Section 27217 of the Elections Code is amended to read:

27217 If the clerk finds the signatures on the petition to be sufficient, he shall submit his certificate as to the sufficiency of the petition to the governing body at its next meeting. The certificate shall contain·

(a) The name of the officer whose recall is sought.

(b) The title of his office.

(c) The number of signatures required by law.

(d) The total number of signatures on the petition.

(e) The number of valid signatures on the petition.

(f) The number of signatures which were disqualified.

CHAPTER 819

An act to add Chapter 6.5 (commencing with Section 17350) to Part 2 of Division 7 of the Business and Professions Code, and to amend Sections 1770 and 2924f of, the Civil Code, relating to property, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

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

SECTION 1 It is the intent of the Legislature to preserve inviolate the rights of consumers and homeowners to remain free from unconscionable fraudulent and deceptive sales practices.

SEC 2 Chapter 6.5 (commencing with Section 17350) is added to Part 2 of Division 7 of the Business and Professions Code, to read·

CHAPTER 6 5. REASSIGNMENTS

17350 With respect to contracts entered into on or after the effective date of this chapter, no financial institution shall enter into a contract which provides for reassignment.

17351 For the purposes of this chapter.

(a) "Financial institution" means a bank, savings and loan association, or credit union chartered under the laws of this state or the United States or any other person or organization making loans upon the security of real property.

(b) "Reassignment" means the right of a financial institution which is the assignee of a contract secured by real property to return the contract to the party assigning it to the financial institution, or to assign it to any other person, upon the default of one or more of the parties to the contract.

SEC. 3 Section 1670.5 is added to the Civil Code, to read:

1670.5 (a) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result

(b) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect to aid the court in making the determination

SEC 4 Section 1770 of the Civil Code is amended to read

1770 The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction

intended to result or which results in the sale or lease of goods or services to any consumer are unlawful:

(a) Passing off goods or services as those of another.

(b) Misrepresenting the source, sponsorship, approval, or certification of goods or services.

(c) Misrepresenting the affiliation, connection, or association with, or certification by, another.

(d) Using deceptive representations or designations of geographic origin in connection with goods or services.

(e) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have.

(f) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.

(g) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another

(h) Disparaging the goods, services, or business of another by false or misleading representation of fact.

(i) Advertising goods or services with intent not to sell them as advertised

(j) Advertising goods or services with intent not to supply reasonably expectable demand, unless the advertisement discloses a limitation of quantity.

(k) Advertising furniture without clearly indicating that it is unassembled if such is the case

(*l*) Advertising the price of unassembled furniture without clearly indicating the assembled price of such furniture if the same furniture is available assembled from the seller.

(m) Making false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions

(n) Representing that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law

(o) Representing that a part, replacement, or repair service is needed when it is not

(p) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not

(q) Representing that the consumer will receive a rebate, discount, or other economic benefit, if the earning of the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(r) Misrepresenting the authority of a salesman, representative, or agent to negotiate the final terms of a transaction with a consumer

(s) Inserting an unconscionable provision in the contract

SEC 5 Section 2924f of the Civil Code is amended to read

2924f (a) As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein.

(b) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof must be given by posting a written notice of the time and place of sale, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period, in some newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in some newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in some newspaper of general circulation published in the county in which the property or some part thereof is situated. A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 20 days before the date of sale In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any, but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of such notice Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted. The term newspaper of general circulation as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1, Division 7, Title 1 of the Government Code

(c) (1) The provisions of this subdivision shall only apply to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence wherein the obligation secured by the deed of trust or mortgage arose as a result of a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3)

(2) Except as otherwise expressly set forth in this subdivision, all

other provisions of law relating to the exercise of a power of sale shall govern the exercise of such a power contained in a deed of trust or mortgage described in paragraph (1) of this subdivision.

(3) Any conveyance of title to the real property which is subject to a deed of trust or mortgage described in paragraph (1) of this subdivision which occurs within 45 days after the recordation of the notice of default is voidable by the trustor or mortgagor.

(4) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) of this subdivision has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____ ,

(Deed of Trust or Mortgage)

DATED _____ UNLESS YOU TAKE ACTION TO PROTECT YOUR HOME, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER

(5) In lieu of the publication required by subdivision (b), before any sale can be made under a power of sale contained in a deed of trust or mortgage described in paragraph (1) of this subdivision, notice of the sale thereof must be published at least once a week for three weeks in the real estate advertising section of at least two newspapers of general circulation published in the county where the residence is located beginning not less than 35 days before the date of the sale At least one of the newspapers shall be a newspaper of general circulation which has the largest paid circulation. The second newspaper shall be of general circulation in the city where the property is located and shall have substantial distribution in the area where the property is located If there is no newspaper of general circulation in the city, with substantial distribution in the area where the property is located or if the property is not located in the city, then one notice must be published in a newspaper of general circulation in the judicial district with substantial circulation in the area where the property is located If there is no newspaper of general circulation in the judicial district with substantial circulation in the area where the property is located, then the notice must be published in a newspaper of general circulation in the county with substantial circulation in the area where the property is located If no more than one newspaper of general circulation is published in the county where the residence is located, then notice need be published in only that one newspaper A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 35 days before the date of sale and shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale The notice may contain a legal description of the property, however, it shall

contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that a detailed description of the property can be obtained from that person. In addition, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain a statement that directions may be obtained from the person named in the notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. The notice must also state a place where offers may be received pursuant to paragraph (b) of this subdivision, the date on and after which such offers will be received, and the minimum acceptable offer. The term "newspaper of general circulation" as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted.

(6) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) of this subdivision shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any such offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and the property conveyed to the person making such offer according to its terms. Any such offer is revocable until accepted.

(7) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50)

(8) This subdivision shall apply only to property on which notices of default were filed on or after the effective date of this subdivision.

SEC 5.5 Section 2924f of the Civil Code is amended to read·

2924f. (a) As used in this section and Sections 2924g and 2924h "property" means real property or a leasehold estate therein.

(b) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage notice of the sale thereof must be given by posting a written notice of the time of sale and of the street address and the specific place at such street address where the sale will be conducted, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the

property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy thereof once a week for the same period, in some newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in some newspaper of general circulation published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in some newspaper of general circulation published in the county in which the property or some part thereof is situated. A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 20 days before date of sale and shall be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of such notice Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted. The term newspaper of general circulation as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1, Division 7, Title 1 of the Government Code.

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, and advances at the time of the initial publication of the notice of sale; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount An inaccurate statement of such amount shall not affect the validity of any sale to a bona fide purchaser for value

(c) (1) The provisions of this subdivision shall only apply to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence wherein the obligation secured by the deed of trust or mortgage arose as a result of a contract for goods or services subject

to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3)

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of such a power contained in a deed of trust or mortgage described in paragraph (1) of this subdivision

(3) Any conveyance of title to the real property which is subject to a deed of trust or mortgage described in paragraph (1) of this subdivision which occurs within 45 days after the recordation of the notice of default is voidable by the trustor or mortgagor

(4) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) of this subdivision has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

_____ ,

(Deed of Trust or Mortgage)

DATED _____. UNLESS YOU TAKE ACTION TO PROTECT YOUR HOME, IT MAY BE SOLD AT A PUBLIC SALE IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(5) In lieu of the publication required by subdivision (b), before any sale can be made under a power of sale contained in a deed of trust or mortgage described in paragraph (1) of this subdivision, notice of the sale thereof must be published at least once a week for three weeks in the real estate advertising section of at least two newspapers of general circulation published in the county where the residence is located beginning not less than 35 days before the date of the sale. At least one of the newspapers shall be a newspaper of general circulation which has the largest paid circulation. The second newspaper shall be of general circulation in the city where the property is located and shall have substantial distribution in the area where the property is located. If there is no newspaper of general circulation in the city, with substantial distribution in the area where the property is located or if the property is not located in the city, then one notice must be published in a newspaper of general circulation in the judicial district with substantial circulation in the area where the property is located. If there is no newspaper of general circulation in the judicial district with substantial circulation in the area where the property is located, then the notice must be published in a newspaper of general circulation in the county with substantial circulation in the area where the property is located If no more than one newspaper of general circulation is published in the county where the residence is located, then notice need be published in only that one newspaper. A copy of such notice of sale shall also be posted in some conspicuous place on the property to be sold at least 35 days before the date of sale and shall be recorded with

the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice may contain a legal description of the property; however, it shall contain the name and address of the beneficiary at whose request the sale is to be conducted and a statement that a detailed description of the property can be obtained from that person. In addition, the notice shall describe the property by giving its street address, if any, or other common designation, if any; but if the property has no street address or other common designation, the notice shall contain a statement that directions may be obtained from the person named in the notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road The notice must also state a place where offers may be received pursuant to paragraph (b) of this subdivision, the date on and after which such offers will be received, and the minimum acceptable offer. The term "newspaper of general circulation" as used herein is as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code. If a legal description of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation, name and address of the beneficiary or directions obtained therefrom are omitted.

(6) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) of this subdivision shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any such offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and the property conveyed to the person making such offer according to its terms. Any such offer is revocable until accepted.

(7) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(d) Subdivision (c) of this section shall apply only to property on which notices of default were filed on or after the effective date of subdivision (c). Amendments made to subdivisions (a) and (b) of this section during the 1979 portion of the 1979–80 Regular Legislative Session shall apply to notices of sale recorded on or after January 1, 1980.

SEC. 6 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is currently provided in

Sections 27201 and 27361 of the Government Code to cover such costs. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

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 effect immediately The facts constituting such necessity are

In order to prevent the unjust forfeiture of homes it is necessary that this act take effect immediately

SEC 8. It is the intent of the Legislature, if this bill and Senate Bill 1126 are both chaptered and become effective on or before January 1, 1980, both bills amend Section 2924f of the Civil Code, and this bill is chaptered after Senate Bill 1126, that Section 2924f of the Civil Code, as amended by Section 5 of this act, shall remain operative until the effective date of Senate Bill 1126, and that on the effective date of Senate Bill 1126 Section 2924f of the Civil Code, as amended by Section 5 of this act, be further amended in the form set forth in Section 5 5 of this act to incorporate the changes in Section 2924f proposed by Senate Bill 1126. Therefore, if this bill and Senate Bill 1126 are both chaptered and become effective on or before January 1, 1980, and Senate Bill 1126 is chaptered before this bill and amends Section 2924f, Section 5.5 of this act shall become operative on the effective date of Senate Bill 1126

CHAPTER 820

An act to amend Section 23919 of, and to add Sections 44839 5 and 87408 5 to, the Education Code, relating to public schools

[Approved by Governor September 19, 1979 Filed with Secretary of State September 19, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 23919 of the Education Code is amended to read

23919 Any retirant who is retired for service may be employed by a school district or other employing agency, except as provided in Sections 45134 and 88033, for not more than 120 days or earn more than five thousand dollars ($5,000), whichever occurs first, unless the retirant has skills needed in performing specialized work of limited duration provided that such service does not exceed a total earnings of five thousand dollars ($5,000) in any one fiscal year and the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties The employment does not operate to reinstate

the retirant as a member of this system, or to terminate or suspend his or her retirement allowance, and no deduction shall be made from his or her salary as contributions to this system.

At the end of each month in which a retirant performed service for a school district or other employing agency, the employer or other authorized agency shall report to the system the retirant's name, social security number and salary regardless of the fund from which the payment was made.

SEC. 2. Section 44839.5 is added to the Education Code, to read:

44839.5. (a) When a school district or county superintendent of schools wishes to employ a retirant who is retired for service, and such person has not been previously employed as a retirant, such district or county superintendent shall require, as a condition of initial employment as a retirant, a medical certificate in such form as shall be prescribed by the State Board of Education showing that the retirant is free from any disabling disease unfitting him or her to instruct or associate with children. The medical certificate shall be completed and submitted directly to the school district or county superintendent by a physician and surgeon licensed under the Business and Professions Code or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code. A medical examination as prescribed by the State Board of Education shall be required for the completion of the medical certificate. Such examination shall be conducted not more than six months before the completion and submission of the certificate and shall be at the expense of the retirant. Notwithstanding Section 44031, the medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee.

(b) The school district or county superintendent of schools which initially employed the retirant, or any school district or county superintendent which subsequently employs the retirant, may require a periodic medical examination by a physician and surgeon licensed under the Business and Professions Code or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, to determine that the retirant is free from any communicable disease unfitting him or her to instruct or associate with children The periodic medical examination shall be at the expense of the school district or county superintendent. The medical certificate shall become a part of the personnel record of the retirant and shall be open to the retirant or his designee

(c) The State Board of Education shall adopt rules and regulations relating to the implementation and administration of this section.

SEC. 3. Section 87408.5 is added to the Education Code, to read:

87408.5 (a) When a community college district wishes to employ a retirant who is retired for service, and such person has not been previously employed as a retirant, such district shall require, as a condition of initial employment as a retirant, a medical certificate in such form as shall be prescribed by the board of governors showing

that the retirant is free from any disabling disease unfitting him or her to instruct or associate with students. The medical certificate shall be completed and submitted directly to the community college district by a physician and surgeon licensed under the Business and Professions Code or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code. A medical examination as prescribed by the board of governors shall be required for the completion of the medical certificate Such examination shall be conducted not more than six months before the completion and submission of the certificate and shall be at the expense of the retirant. Notwithstanding Section 44031, the medical certificate shall become a part of the personnel record of the employee and shall be open to the employee or his designee

(b) The community college district which initially employed the retirant, or any such district which subsequently employs the retirant, may require a periodic medical examination by a physician and surgeon licensed under the Business and Professions Code or a commissioned medical officer exempted from licensure by Section 2144 of the Business and Professions Code, to determine that the retirant is free from any communicable disease unfitting him or her to instruct or associate with students. The periodic medical examination shall be at the expense of the community college district. The medical certificate shall become a part of the personnel record of the retirant and shall be open to the retirant or his designee.

(c) The board of governors shall adopt rules and regulations relating to the implementation and administration of this section.

CHAPTER 821

An act to add Sections 3517.1, 3523, and 3575.1 to and Article 3 8 (commencing with Section 3596) to Chapter 1 of Division 2 of, the Public Utilities Code, relating to carriers, and making an appropriation therefor.

[Became law without Governor's signature September 20, 1979 File with Secretary of State September 20, 1979]

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

SECTION 1. Section 3517 1 is added to the Public Utilities Code, to read·

3517.1. "Highway contract carrier" also means every highway carrier other than a heavy-specialized carrier and those otherwise excepted in Section 3517.

SEC. 2. Section 3523 is added to the Public Utilities Code, to read

3523. "Heavy-specialized carrier" means any person or corporation engaged in the transportation for compensation over

any public highway in this state of any commodity, the transportation or handling of which because of width, length, height, weight, shape, or size requires special authority from a governmental agency regulating the use of highways, roads, or streets, in any motor vehicle or combination of vehicles.

SEC. 3 Section 3575.1 is added to the Public Utilities Code, to read:

3575.1. Every heavy-specialized carrier who engages subhaulers or leases equipment from employees shall file with the commission a bond, the amount of which shall be determined by the commission but which shall be not less than two thousand dollars ($2,000), executed by a qualified surety insurer, subject to the approval of the commission, which bond shall secure the payment of the claims of subhaulers and employee-lessors of the carrier; provided, however, that the aggregate liability of the surety for all such claims shall, in no event, exceed the sum of such bond.

SEC. 4. Article 3.8 (commencing with Section 3596) is added to Chapter 1 of Division 2 of the Public Utilities Code, to read:

Article 3.8. Heavy-Specialized Carriers

3596 The transportation for compensation over any public highway in this state of any commodity the transportation or handling of which, because of width, length, height, weight, shape, or size requires special authority from a governmental agency regulating the use of highways, roads, or streets is declared to be a highly specialized type of truck transportation service. This article is enacted for the limited purpose of providing necessary regulations for this specialized type of transportation service only, and it is not to be construed for any purpose as a precedent for the extension of such regulations to any other type of transportation.

3596.5 No heavy-specialized carrier shall engage in the business of transportation for compensation over any public highway in this state of any commodity the transportation or handling of which, because of width, length, height, weight, shape, or size requires special authority from a governmental agency regulating the use of highways, roads, or streets, and any other commodity moving in a single shipment with such commodity when incidental thereto, in any motor vehicle or combination of vehicles unless there is in force a permit issued by the commission authorizing such operation.

3597 (a) Application for permits to operate as a heavy-specialized carrier shall be in writing, verified under oath, and shall be in such form, contain such information, and be accompanied by proof of service upon such interested parties as the commission requires.

(b) Any heavy-specialized carrier engaged in such business on January 1, 1980, shall file with the commission prior to July 1, 1980, an application for a permit to operate as a heavy-specialized carrier; provided, that in lieu of all other fees required by law, the applicant

shall pay a fee of fifty dollars ($50). If the applicant was operating in good faith as a heavy-specialized carrier during 1979, and continuously to the date of filing, the commission shall grant a permit to such applicant to operate as a heavy-specialized carrier statewide, provided such heavy-specialized carrier applies to the commission for such permit prior to July 1, 1980, and submits adequate proof of such prior operations.

(c) If, in the judgment of the commission, the applicant has satisfied all requirements of this section, it may issue the requested permit without further proceedings; otherwise it may require the applicant to demonstrate compliance at a public hearing.

3597.5. (a) Except as provided in Section 3597, any highway carrier desiring a permit to operate as a heavy-specialized carrier shall file a petition therefor with the commission. The petition shall set forth all of the following:

(1) The name and address of the applicant.

(2) The names and addresses of its officers, if any.

(3) Full information concerning the financial condition and physical properties of the applicant.

(4) Such other information necessary to the enforcement of this chapter as the commission may require.

(b) Before a permit is issued, the commission shall require that the applicant establish financial responsibility. The commission may, with or without a hearing, issue or refuse to issue the permit. If the commission finds that the applicant possesses the required financial responsibility to perform the operations proposed, it shall issue a permit. The commission may attach to the permit such terms and conditions as, in its judgment, are required to assure protection to persons utilizing the applicant's operations.

(c) No permit shall be issued unless it has been shown that applicant meets one of the following residence requirements.

(1) If an individual, applicant shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the petition.

(2) If a partnership, the partner having the largest percentage interest in the partnership shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the petition.

(3) If a corporation, the applicant shall either be a domestic corporation or shall have qualified to transact business in the State of California as a foreign corporation at the time of filing of the petition.

(d) Except as otherwise provided in this chapter, upon compliance by an applicant with this chapter, the commission shall issue a permit.

3598. No permit to operate as a heavy-specialized carrier shall be sold, leased, assigned, transferred, or otherwise encumbered by the holder thereof until such holder files with the commission a written application requesting authority to sell, lease, assign, transfer, or

otherwise encumber such operating authority and secures therefrom an order so authorizing. The commission shall authorize the sale, lease, assignment, or transfer of heavy-specialized carrier operating authority to the extent of the scope and the area of the operation of the holder thereof as determined by the commission, only upon a finding that the transferee meets all criteria for an original applicant, pursuant to this article.

3598.5. No permit to operate as a heavy-specialized carrier issued pursuant to Section 3597 may be sold, mortgaged, leased, assigned, transferred, or otherwise encumbered for a period of five years after issuance, except to the extent of operations actually conducted in good faith, not including operations as a subhauler.

3599. Any operating permit not exercised for a period of one year, inclusive of all periods of suspension, shall lapse and terminate and shall be revoked by the commission. Nonexercise of a permit shall be presumed from nonpayment of the fees required by Chapter 6 (commencing with Section 5001) of Division 2 for four consecutive quarters.

SEC. 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253.2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act

---

CHAPTER 822

An act to amend Sections 69895, 69900, 74502, 74503, and 74504 of the Government Code, relating to courts.

[Became law without Governor's signature September 20, 1979 Filed with Secretary of State September 20, 1979]

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

SECTION 1. Section 69895 of the Government Code is amended to read:

69895. In the City and County of San Francisco, the superior court shall appoint an executive officer who shall act as a secretary to the judges of the superior court and perform the duties of jury commissioner pursuant to Section 69893. The salary of the executive

officer shall be a minimum salary of three thousand three hundred twenty dollars ($3,320) monthly during his first year of service, three thousand four hundred eighty-seven dollars ($3,487) monthly during his second year of service, three thousand six hundred sixty-five dollars ($3,665) monthly during his third year of service, and three thousand eight hundred twenty-two dollars ($3,822) monthly during his fourth year of service and thereafter.

In the city and county, on the authorization of the judges, the executive officer shall have three administrative assistants, one of whom shall receive a salary of two thousand seven hundred thirty-four dollars ($2,734) monthly during his first year of service, two thousand eight hundred seventy-one dollars ($2,871) monthly during his second year of service, three thousand eight dollars ($3,008) monthly during his third year of service, and three thousand one hundred forty-four dollars ($3,144) monthly during his fourth year of service and thereafter; and two of whom shall each receive a salary of two thousand three hundred seventy-four dollars ($2,374) monthly during their first year of service, two thousand four hundred ninety-four dollars ($2,494) monthly during their second year of service, two thousand six hundred fourteen dollars ($2,614) monthly during their third year of service, and two thousand seven hundred thirty-four dollars ($2,734) monthly during their fourth year of service and thereafter.

The increment shall be paid commencing on the first day of the month following the first, second, and third anniversary of the incumbent's appointment. All service included prior to the effective date of the amendment to this section enacted during the 1979–80 Regular Session of the Legislature shall constitute service for purpose of determining entitlement to increments.

The administrative assistants shall assist also in the performance of the duties of jury commissioner. The salaries of the executive officer and administrative assistants shall be paid by the city and county.

The court may delegate to the executive officer any administrative powers and duties as are now or hereafter by law may be vested in or required to be exercised by such court.

SEC. 2. Section 69900 of the Government Code is amended to read.

69900. In the City and County of San Francisco, a majority of the judges of the superior court may appoint the following employees, whose monthly salaries shall be as set forth hereafter:

	Step 1	*Step 2*	*Step 3*	*Step 4*
Four judicial secretaries	$1,213	$1,261	$1,309	$1,356
Seven judicial clerks, senior	1,213	1,261	1,309	1,356
Four assistant court commissioners	2,408	2,529	2,650	2,771
One legal research assistant to presiding judge..... ..	1,550	1,625	1,700	1,775

Three court assistants	1,238	1,320	1,402	1,484
Ten judicial clerks	909	951	993	1,036
Two information clerks	1,063	1,108	1,153	1,198
One chief assistant to calendar clerk	1,513	1,599	1,685	1,770
One chief calendar clerk	1,836	1,962	2,088	2,213
One criminal jury coordinator	1,668	1,775	1,882	1,989
One director family court services	2,230	2,330	2,430	2,530
Four counselors family court services	1,782	1,854	1,926	1,999
One mental health coordinator	2,102	2,221	2,340	2,460
Six court commissioners	3,018	3,169	3,321	3,473
One civil courts coordinator	2,102	2,221	2,340	2,460
One criminal courts coordinator	2,102	2,221	2,340	2,460
One pretrial assistant	2,102	2,221	2,340	2,460
Four legal research assistants	1,500	1,575	1,650	1,725
Three court investigators	1,743	1,814	1,885	1,956
One secretary to executive officer	1,327	1,375	1,423	1,471
One calendar control clerk	1,003	1,051	1,099	1,146
One calendar control clerk, senior	1,099	1,152	1,205	1,257
Three probate examiners	1,743	1,814	1,885	1,956

All figures in the above columns represent the salaries to be paid monthly to each of the employees so appointed. All original appointments shall be at step 1, provided that on the first of the month following the first anniversary of the employee's appointment he shall advance to the second step, and thereafter on the first of the month following the second anniversary of the employee's appointment he shall advance to step 3, and thereafter on the first of the month following the third anniversary of the employee's appointment he shall advance to step 4, and thereafter shall be paid at the rate established by step 4 Service in any position enumerated herein prior to the effective date of the amendments to this section enacted at the 1979–80 Regular Session of the Legislature shall constitute service for the purpose of determining the step at which the attaché is to be paid Service in any position wherein substantially the same duties have been performed shall also be deemed service for the purpose of determining at which step the attaché is to be paid.

Employment by the court shall be deemed to be employment by the county, if approved by resolution of the court, for purposes of determining court employees' rights to sick leave, vacation, and holiday pay and accumulation thereof, as provided either by charter or ordinances of the county for miscellaneous employees.

With the approval of the board of supervisors the court may establish such additional titles and pay rates as are required and with the approval of the board of supervisors may appoint and employ such additional commissioners, officers and assistants and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Rates of compensation of all officers and assistants and other employees may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court. Such appointments or changes in compensation made pursuant to this paragraph shall be on an interim basis and shall expire on January 1 of the second year following the date of the appointment or change in compensation unless ratified by the Legislature.

The salaries of such employees shall be paid by the city and county.

SEC. 3. Section 74502 of the Government Code is amended to read:

74502. (a) There shall be one clerk executive officer who shall also serve as secretary to the judges and who shall be paid a salary of two thousand eight hundred fifty-four dollars ($2,854) monthly during the first year of service, a salary of two thousand nine hundred ninety-seven dollars ($2,997) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, a salary of three thousand one hundred forty-five dollars ($3,145) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment, and a maximum salary of three thousand four hundred eight dollars ($3,408) monthly after the third year of service commencing on the first day of the month following the third anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one clerk executive officer who shall also serve as secretary to the judges, and who shall hold office at their pleasure and who shall receive the salary provided in this section.

(b) There shall be one court commissioner who shall be paid a salary of 75 percent of a municipal court judge's salary monthly during the first year of service, a salary of 77 percent of a municipal court judge's salary monthly after the first day of the month following the first anniversary of his appointment, a salary of 80 percent of a municipal court judge's salary monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment, a salary of 84 percent of a municipal court judge's salary monthly after the third year of service, commencing on the first day of the month following the third anniversary of his appointment, a salary of 90 percent of a municipal court judge's salary monthly after the fourth year of service, commencing on the first day of the month following the fourth anniversary of his appointment, and a salary of 95 percent of a municipal court judge's salary monthly after the fifth year of service,

commencing on the first day of the month following the fifth anniversary of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, may appoint one court commissioner, who shall hold office at their pleasure and who shall receive the salary provided in this section.

(c) There shall be one executive assistant to the presiding judge who shall be paid a salary of two thousand one hundred ten dollars ($2,110) monthly during the first year of service, a salary of two thousand two hundred seventeen dollars ($2,217) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand three hundred twenty-three dollars ($2,323) monthly after the second year of service, commencing on the first day of the month following the second year of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one executive assistant to the presiding judge, who shall hold office at their pleasure and who shall receive the salary provided in this section. When the executive assistant to the presiding judge is a member of the state bar, the executive assistant may perform duties for the court in the field of law at the direction of the presiding judge with the concurrence of the administrative committee and be paid in addition to the salary provided by this article, the additional sum of four hundred dollars ($400) monthly.

(d) There shall be one executive secretary to the presiding judge who shall serve as executive secretary to the presiding judge who shall be paid the salary of one thousand three hundred forty-seven dollars ($1,347) monthly during the first year of service, a salary of one thousand four hundred fifteen dollars ($1,415) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand four hundred ninety dollars ($1,490) monthly after the second year of service, commencing on the first day of the month following the second year of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, shall appoint one executive secretary to the presiding judge who shall hold office at their pleasure and who shall receive the salary as provided in this section.

SEC. 4. Section 74503 of the Government Code is amended to read:

74503. (a) There shall be one chief deputy, who shall also serve as jury commissioner and who shall exercise the powers of jury commissioner of superior courts insofar as they are applicable to the municipal court and who shall perform such other duties as assigned by the judges of the court and who shall be paid a minimum salary of two thousand five hundred sixty-three dollars ($2,563) monthly during the first year of service, a salary of two thousand six hundred seventy-one dollars ($2,671) monthly after the first year of service,

commencing on the first day of the month following the anniversary of his appointment, and a maximum salary of two thousand seven hundred eighty-seven dollars ($2,787) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one chief deputy, who shall also serve as jury commissioner and who shall hold office at their pleasure, and who shall perform such other duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(b) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, two deputy clerks who shall be the court systems coordinators and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand eighteen dollars ($2,018) monthly during the first year of service, a salary of two thousand one hundred eleven dollars ($2,111) monthly after the first year of service commencing on the first day of the month following the anniversary of his appointment, and a maximum salary of two thousand two hundred seven dollars ($2,207) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk who shall be court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(c) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be assistant court systems coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand seven hundred fifty-seven dollars ($1,757) monthly during the first year of service, a salary of one thousand eight hundred forty dollars ($1,840) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand nine hundred thirty-five dollars ($1,935) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the assistant court systems coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(d) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may

appoint, a court fiscal officer who shall be paid a minimum salary of two thousand one hundred forty-six dollars ($2,146) monthly during the first year of service, a salary of two thousand two hundred forty-four dollars ($2,244) monthly during the second year of service commencing on the first day of the month following the first anniversary of his appointment, and a salary of two thousand three hundred forty-five dollars ($2,345) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(e) The clerk shall appoint three deputy clerks who shall be the chief division clerks in the civil, criminal, and traffic departments of the court, and who shall be paid a minimum salary of two thousand eighteen dollars ($2,018) monthly during the first year of service, a salary of two thousand one hundred eleven dollars ($2,111) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand two hundred seven dollars ($2,207) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(f) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one deputy clerk who shall be criminal courts calendar coordinator and who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of two thousand eighteen dollars ($2,018) monthly during the first year of service, a salary of two thousand one hundred eleven dollars ($2,111) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand two hundred seven dollars ($2,207) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one deputy clerk who shall be the criminal courts calendar coordinator and who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(g) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges may appoint, one court program analyst manager who shall be paid a salary of one thousand nine hundred eighty dollars ($1,980) monthly during the first year of service, a salary of two thousand eighty-four dollars ($2,084) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of two thousand one hundred eighty-eight dollars ($2,188) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall

appoint one court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

(h) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one assistant court program analyst manager who shall be paid a salary of one thousand five hundred eighty-three dollars ($1,583) monthly during the first year of service, a salary of one thousand six hundred sixty-seven dollars ($1,667) monthly after the first year of service, commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand seven hundred fifty dollars ($1,750) monthly after the second year of service, commencing on the first day of the month following the second anniversary of his appointment. Whenever a vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one assistant court program analyst manager, who shall hold such position at their pleasure and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided, except that the appointing authority, in its discretion, may start an appointee at a first or second anniversary salary level.

SEC 5 Section 74504 of the Government Code is amended to read:

74504. The clerk shall also appoint:

(a) Seven deputy clerks who shall be assistant chief division clerks and who shall be paid the minimum salary of one thousand seven hundred fifty-seven dollars ($1,757) monthly during the first year of service, a salary of one thousand eight hundred forty dollars ($1,840) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of one thousand nine hundred thirty-five dollars ($1,935) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(b) Thirty-four deputy clerks who shall be paid a minimum salary of one thousand four hundred thirty-five dollars ($1,435) monthly during the first year of service, a salary of one thousand five hundred twenty-six dollars ($1,526) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand six hundred forty-six dollars ($1,646) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(c) Twenty-three deputy clerks who shall be paid a minimum salary of one thousand two hundred sixty-one dollars ($1,261)

monthly during the first year of service, a salary of one thousand three hundred four dollars ($1,304) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of one thousand three hundred fifty-one dollars ($1,351) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(d) Two deputy clerks who shall be paid a minimum salary of one thousand one hundred eighty dollars ($1,180) monthly during the first year of service, a salary of one thousand two hundred eleven dollars ($1,211) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand two hundred forty-five dollars ($1,245) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(e) Notwithstanding the provisions of Section 74507, the clerk shall appoint, or a majority of the judges of the municipal court may appoint, one administrative legal stenographer who shall perform such duties as assigned by the clerk of the court and who shall be paid a minimum salary of one thousand two hundred seventy dollars ($1,270) monthly during the first year of service, a salary of one thousand three hundred thirteen dollars ($1,313) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand three hundred eighty-four dollars ($1,384) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment. Whenever any vacancy occurs, the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint one administrative legal stenographer who shall hold such position at their pleasure, and who shall perform such duties as assigned by the judges of the court, and who shall receive the salary hereinabove provided.

(f) Thirty-seven deputy clerks who shall be paid a minimum salary of one thousand sixty-three dollars ($1,063) monthly during the first year of service, a salary of one thousand one hundred twenty-six dollars ($1,126) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment and a maximum salary of one thousand one hundred ninety dollars ($1,190) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(g) Seventy-eight deputy clerks who shall be paid a minimum salary of eight hundred thirty-nine dollars ($839) monthly during the first year of service, a salary of nine hundred nine dollars ($909) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, and a maximum salary of one thousand four dollars ($1,004) monthly

after the second year of service commencing on the first day of the month following the second anniversary of his appointment.

(h) Two deputy clerk-information clerks who shall be paid a minimum salary of eight hundred ninety-eight dollars ($898) monthly during the first year of service, a salary of one thousand twenty-one dollars ($1,021) monthly after the first year of service commencing on the first day of the month following the first anniversary of his appointment, a salary of one thousand one hundred forty-seven dollars ($1,147) monthly after the second year of service commencing on the first day of the month following the second anniversary of his appointment, and a maximum salary of one thousand one hundred eighty-five dollars ($1,185) monthly after the third year of service commencing on the first day of the month following the third anniversary of his appointment. Whenever any vacancy occurs, the clerk, with the approval of the judges, or a majority of them, notwithstanding any other provisions of this code, shall appoint a deputy clerk-information clerk, who shall perform such duties as assigned by the clerk and who shall receive the salary hereinabove provided.

(i) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as personnel-payroll deputy shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(j) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as budget-purchasing deputy to the court fiscal officer, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(k) Two deputy clerks designated in Section 74504 who shall serve as master calendar clerk, civil, and master calendar clerk, criminal, and while assigned to such position by the clerk of the court, shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(*l*) Five deputy clerks designated in Section 74504 and while assigned by the clerk of the court as the principal courtroom clerks serving in the arraignment courts and traffic courts, shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(m) Two deputy clerks designated in Section 74504 who shall serve as master jury calendar clerk, civil, and master jury calendar clerk, criminal, and while assigned to such position shall be paid in addition to the salary provided by this article, the additional sum of one hundred dollars ($100) monthly.

(n) One deputy clerk designated in Section 74504 and while assigned by the clerk of the court as supervisor of the midnight to 8:00 a.m. shift shall be paid in addition to the salary provided by this article, the additional sum of fifty dollars ($50) monthly.

(o) Deputy clerks who are required and authorized to work more than 40 hours in a week shall be entitled to overtime pay for that period in excess of the 40 hours at a rate equal to one and one-half

times the amount to which they are otherwise entitled.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 823

An act to amend Sections 73483, 73484, 73485, 73487, 73705, 73706, 73708, 73710, 73793, 73794, 73796, 73797, 73798, 74783, 74784, 74785, 74803, 74804, 74805, and 74807 of the Government Code, relating to courts.

[Became law without Governor's signature September 20, 1979 Filed with Secretary of State September 20, 1979]

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

SECTION 1. Section 73483 of the Government Code is amended to read:

73483. The clerk may appoint·

(a) Two (2) deputy clerks IV.

(b) Three (3) deputy clerks III.

(c) Three (3) deputy clerks II.

(d) Five (5) deputy clerks I.

SEC. 2. Section 73484 of the Government Code is amended to read·

73484. There shall be one marshal who shall receive the biweekly salary specified in range 50.25 as set forth in the biweekly salary schedule contained in Section 73486.

Whenever the salary of the class of lieutenant in the service of San Joaquin County is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature

SEC 3. Section 73485 of the Government Code is amended to read.

73485. The marshal may appoint:

(a) Three (3) deputy marshals.

(b) One (1) clerk-typist II

(c) One (1) clerk-typist I

SEC. 4 Section 73487 of the Government Code is amended to read·

73487 Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 73486, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	*Range*
(a) Deputy clerk I	32 50
(b) Deputy clerk II	34.50
(c) Deputy clerk III	36 50
(d) Deputy clerk IV	39.75
(e) Clerk	44 75
(f) Clerk-typist II	32 50
(g) Deputy Marshal	43.25

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter, no additional step increase shall be granted

SEC 5 Section 73705 of the Government Code is amended to read

73705 The clerk may appoint.

(a) Two (2) chief deputy clerks who shall be assistant administrative officers

(b) Two (2) deputy clerks III

(c) Five (5) deputy clerks II

(d) Nine (9) deputy clerks I.

SEC. 6. Section 73706 of the Government Code is amended to read

73706 There shall be one marshal who shall receive the biweekly salary specified in range 50 25 as set forth in the biweekly salary schedule contained in Section 73709 Whenever the salary of lieutenant in the service of the County of San Joaquin is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant. Any adjustment shall be effective only until January 1, of the second year following the year in which the adjustment is made, unless ratified by the Legislature

SEC 7 Section 73708 of the Government Code is amended to read

73708 The marshal may appoint·

(a) One (1) senior deputy marshal

(b) Five (5) deputy marshals

(c) Three (3) clerk-typists II

SEC 8 Section 73710 of the Government Code is amended to read

73710. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 73709, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	*Range*
(a) Chief deputy clerk	44.00
(b) Deputy clerk III	36.50
(c) Deputy clerk II	34.50
(d) Deputy clerk I	32.50
(e) Clerk	44.75
(f) Clerk-typist II	32.50
(g) Senior deputy marshal	45.50
(h) Deputy marshal	43.25

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter, no additional step increase shall be granted.

SEC 9. Section 73793 of the Government Code is amended to read·

73793. There shall be one administrative officer of the court known as the municipal court clerk-administrator, who shall be appointed by a majority of the judges of the court. The court clerk-administrator shall receive a biweekly salary on range 48.

SEC 10 Section 73794 of the Government Code is amended to read

73794 There may be two traffic referees who shall be appointed by a majority of the judges of the court. A traffic referee shall receive a biweekly salary on range 44.5 The provisions of Section 72400 do not apply to the traffic referees appointed pursuant to this section.

A traffic referee of the court shall have the powers and duties specified for traffic referees in Sections 72401, 72402, and 72403

SEC 11 Section 73796 of the Government Code is amended to read

73796 There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary on range 48

The office of marshal shall be filled initially by appointment by a majority of the judges of the court from among those persons who have served as constable of a justice court in Merced County during the year of 1976.

SEC 12 Section 73797 of the Government Code is amended to read·

73797 (a) The marshal may appoint.

(1) One assistant marshal on range 44.
(2) Seven deputy marshals II on range 41.
(3) Two civil assistants on range 31.

(b) The initial appointments to the positions of assistant marshal and deputy marshal shall be made from persons who have served as constables in a justice court in Merced County during the year of 1976. Such appointees shall become deputy marshals and receive the salary provided at the fifth step of the range designated for deputy marshal. The assistant marshal initially appointed shall receive the salary provided at the fifth step of the range designated for assistant marshal.

SEC. 13. Section 73798 of the Government Code is amended to read:

73798. The clerk-administrator may appoint:
(a) One supervising municipal court clerk II on range 39.5.
(b) Four supervising municipal court clerks I on range 35.
(c) Eight deputy court clerks II on range 33.
(d) Thirteen deputy court clerks I on range 31.
(e) One account technician I on range 35.5.
(f) Three account clerks I on range 31.
(g) Four typist-clerks II on range 30.
(h) One pretrial release clerk on range 38.5.

SEC. 14. Section 74783 of the Government Code is amended to read·

74783. There shall be one clerk who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The clerk shall be on salary range 56B. The clerk may appoint, with the approval of the judges of the court:
(a) One assistant clerk on range 49D.
(b) Eight municipal court clerks on range 44A.
(c) One legal clerk on range 41C.
(d) Four account clerks III on range 40C.
(e) One clerk III on range 39C.
(f) Five account clerks II on range 37C.
(g) Twenty-six typist-clerks II on range 36C

SEC. 15. Section 74784 of the Government Code is amended to read:

74784. There shall be one marshal who shall be appointed by and serve at the pleasure of a majority of the judges of the court, and who shall be on range 51C. The marshal may appoint, with the approval of the judges of the court:
(a) One sergeant deputy marshal on range 48A.
(b) Eleven deputy marshals on range 45A.
(c) One account clerk III on range 39B.
(d) One account clerk II on range 36B.
(e) Three typist-clerks II on range 35B.
(f) Two deputy marshals who shall be custodians at the fee allowed by law for keeping property.

SEC. 16 Section 74785 of the Government Code is amended to

read:

74785. Official reporters in the municipal court appointed pursuant to Section 72194 shall be attachés of the court, and in lieu of any other compensation provided by law for their services in reporting testimony in criminal proceedings in the court shall receive a monthly salary equivalent to range 52D

SEC. 17. Section 74803 of the Government Code is amended to read:

74803 The clerk may appoint

(a) One (1) chief deputy clerk who shall be assistant administrative officer and chief deputy.

(b) Eleven (11) deputy clerks IV.

(c) Three (3) deputy clerks III.

(d) One (1) deputy clerk III (stenographer).

(e) Seven (7) deputy clerks II.

(f) Twenty-four (24) deputy clerks I

SEC. 18 Section 74804 of the Government Code is amended to read

74804 There shall be one marshal who shall receive the biweekly salary specified in range 53.25 as set forth in the biweekly salary schedule contained in Section 74806

Whenever the salary of the class of lieutenant in the service of San Joaquin County is adjusted, the salary of the marshal may be adjusted by a percentage equivalent to that of such class of lieutenant Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

SEC 19 Section 74805 of the Government Code is amended to read

74805 The marshal may appoint

(a) One (1) senior deputy marshal.

(b) Seven (7) deputy marshals

(c) Twenty (20) deputies who shall be custodians at a fee allowed by law for the keeping of property.

SEC. 20 Section 74807 of the Government Code is amended to read.

74807. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule contained in Section 74806, except that if the range shown opposite the title of the position includes a fraction then the person employed in such position shall be paid a salary equal to that shown opposite said fractional range in the salary ordinance of the County of San Joaquin.

Position	*Range*
(a) Deputy clerk I	32 50
(b) Deputy clerk II (stenographer)	34 00
(c) Deputy clerk II	34 50
(d) Deputy clerk III	36 50

(e) Deputy clerk III (stenographer)	37.00
(f) Deputy clerk IV	39.75
(g) Deputy clerk V	41.75
(h) Chief deputy clerk	44.00
(i) Clerk	52.75
(j) Clerk-typist II	32 50
(k) Deputy marshal	43.25
(*l*) Senior deputy marshal	45.50

Subject to the provisions of the salary ordinance of the County of San Joaquin, each person employed in the clerk's office or the marshal's office may receive an annual increase in salary of one step on his assigned range until the employee reaches the maximum step on the range assigned for his position. Thereafter, no additional step increase shall be granted.

SEC. 21. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act.

CHAPTER 824

An act to amend Sections 6731, 8731, 8740.1, 8742, and 8805 of, and to add Section 8740 2 to, the Business and Professions Code, relating to land surveyors, and making an appropriation therefor.

[Became law without Governor's signature September 20, 1979. Filed with Secretary of State September 20, 1979.]

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

SECTION 1. Section 6731 of the Business and Professions Code is amended to read

6731 Civil engineering embraces the following studies or activities in connection with fixed works for irrigation, drainage, waterpower, water supply, flood control, inland waterways, harbors, municipal improvements, railroads, highways, tunnels, airports and airways, purification of water, sewerage, refuse disposal, foundations, framed and homogeneous structures, buildings, or bridges:

(a) The economics of, the use and design of, materials of construction and the determination of their physical qualities.

(b) The supervision of the construction of engineering structures.

(c) The investigation of the laws, phenomena and forces of nature

(d) Appraisals or valuations.

(e) The preparation and/or submission of designs, plans and specifications and engineering reports.

Civil engineering also includes city and regional planning insofar as any of the above features are concerned therein.

Civil engineering also includes land surveying as defined in Chapter 15 (commencing with Section 8700) of Division 3, provided that for civil engineers who become registered after January 1, 1982, they shall pass the examination provided for in Section 8740.2, before practicing land surveying as defined in Chapter 15 (commencing with Section 8700) of Division 3.

SEC. 2. Section 8731 of the Business and Professions Code is amended to read:

8731. A registered civil engineer and a civil engineer exempt from registration under Chapter 7 of Division III of this code are exempt from licensing under this chapter and may engage in the practice of land surveying with the same rights and privileges, and the same duties and responsibilities of a licensed land surveyor, provided that for civil engineers who become registered after January 1, 1982, they shall pass the examination provided for in Section 8740.2, before practicing land surveying as defined in this chapter.

SEC. 3. Section 8740.1 of the Business and Professions Code is amended to read:

8740.1. The first division of the examination shall test the applicant's knowledge of fundamental surveying, mathematics, and basic science. The board may prescribe by regulation reasonable educational or experience requirements but not to exceed two years of postsecondary education in land surveying or two years of experience in land surveying for admission to the first division of the examination. Applicants who have passed the engineer-in-training examination, or who hold professional engineer registration, are exempt from this division of the examination.

SEC. 4 Section 8740.2 is added to the Business and Professions Code, to read:

8740.2. The second division of the examination shall test the applicant's ability to apply his or her knowledge and experience and to assume responsible charge in professional practice of land surveying.

SEC. 5. Section 8742 of the Business and Professions Code is amended to read·

8742. The educational qualifications and experience in land surveying, which an applicant for the second division examination shall possess, shall be not less than the following prescribed minima:

(a) Graduation from a four-year curriculum with an emphasis in land surveying approved by the board or accredited by a national or regional accrediting agency recognized by the United States Office of Education at a postsecondary educational institution and two years of actual experience in land surveying, including one year of responsible field training and one year of responsible office training; or

(b) Actual experience in land surveying for at least six years,

including one year of responsible field training and one year of responsible office training; or

(c) Registration as a civil engineer.

One year of postsecondary education in land surveying shall be counted the same as one year of experience in land surveying up to a maximum of four years provided: (1) the applicant has graduated from the course in land surveying, and (2) the curriculum in land surveying is approved by the board or is accredited by a regional or national accrediting agency recognized for the purpose by the United States Office of Education. Each year of study in an approved or an accredited course in land surveying without graduation shall be counted the same as one-half year of experience.

(d) Each applicant claiming equivalent credit for education may be required to produce a complete transcript of all college level courses completed.

SEC. 6. Section 8805 of the Business and Professions Code is amended to read:

8805 The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The application fee for the examination is as follows:

(1) For the first division of the examination, not more than forty dollars ($40).

(2) For the second division of the examination, not more than sixty dollars ($60), provided, however, that the fee set for the examination required by Section 8731 shall not exceed the actual cost of the examination

(b) The duplicate certificate fee at not more than six dollars ($6).

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

(d) The temporary license fee at not more than twenty dollars ($20).

(e) The delinquency fee for a license which expires after June 30, 1961, is an amount equal to 50 percent of the renewal fee in effect on the date of its reinstatement.

CHAPTER 825

An act to add Section 56034.6 to the Education Code, relating to special education programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1979 Filed with Secretary of State September 20, 1979]

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

SECTION 1. Section 56034.6 is added to the Education Code, to read·

56034.6. (a) Upon receipt of a request from a private school for payment for services provided under a contract entered into pursuant to Section 56034 and upon completion of all requirements by the private school contained in this article, the local school district shall either (1) send a warrant for the amount requested within 45 calendar days, or (2) notify the private school within 10 working days of any reason why the requested payment shall not be paid.

(b) If the local school district fails to comply with subdivision (a), the private school may require the local school district to pay an additional amount of 1½ percent of the unpaid balance per month until full payment is made. The local school district may not claim reimbursement from the state for such additional amount pursuant to any provision of law, including any provision contained in Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

SEC 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

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

In order that the provisions of this act may be implemented at the commencement of the 1979–80 school year, it is necessary that this act take effect immediately.

CHAPTER 826

An act to amend Sections 44210, 44212, and 44240 of the Education Code, relating to teacher preparation and licensing

[Approved by Governor September 20, 1979 Filed with Secretary of State September 20, 1979]

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

SECTION 1 Section 44210 of the Education Code is amended to read

44210 There is hereby established in the state government the Commission for Teacher Preparation and Licensing, to consist of

members appointed by the Governor with the advice and consent of the Senate. The commission shall consist of the following members:

(a) Five persons employed as certified personnel in public elementary and secondary schools in California. At least three of the five shall be full-time classroom teachers. One of the five shall be employed under a services credential with a specialization in administrative services. One of the five shall be a holder of any permit or credential issued by the commission or its predecessor other than the teaching credential or services credential with a specialization in administrative services.

(b) Three faculty members of accredited public or private colleges or universities in California who are engaged in full-time teaching, and one of the three shall be engaged in teacher education.

(c) Two school board members.

(d) Seven representatives of the public.

With the exception of the seven representatives of the public, the appointment of a member shall terminate if he or she is no longer a certified employee in a public elementary or secondary school, or a faculty member of an accredited public or private college or university, or a school district governing board member, as may be the case, in California.

Not more than one member of the commission is to be appointed from the same school district or college or university campus.

No person who is currently, or has been, employed in a certificated position or in any administrative, faculty, or professional position in any accredited institution of public or private postsecondary education within the five years next preceding the date of appointment shall be appointed to the commission as a public member. Not more than four of the seven members appointed to the commission as a public member shall ever in the past have been employed in a certificated position or in any administrative, faculty, or professional position in any accredited institution of public or private postsecondary education

The additional public members of the commission provided for in this section as amended during the 1977–78 or 1978–79 Regular Session, shall be appointed by the Governor as vacancies in the commission occur, consistent with the requirements of professional representation.

SEC. 2 Section 44212 of the Education Code is amended to read:

44212 The Superintendent of Public Instruction, the Regents of the University of California, the Trustees of the California State University and Colleges, the California Postsecondary Education Commission, and the Association of Independent California Colleges and Universities shall each appoint a representative to serve as member ex officio without vote in proceedings of the commission.

Such ex officio members shall not vote in any proceedings of the commission nor in any of its committees or subcommittees, except, by a majority vote of the commission, ex officio members may be permitted to vote in committees or subcommittees in order to

establish a quorum as otherwise determined by majority vote of the commission.

SEC. 3. Section 44240 of the Education Code is amended to read:

44240. The commission shall appoint a Committee of Credentials, consisting of seven persons for terms fixed by the commission but not to exceed two years. The committee shall include:

(a) One member who shall be a full-time certified classroom teacher in the public elementary schools with not less than five years' classroom experience.

(b) One member who shall be a full-time certified classroom teacher in the public secondary schools with not less than five years' classroom experience.

(c) One member who shall be a certified administrative employee in the public schools.

(d) One member who shall be a past or present member of the governing board of any school district. No person who is or has been employed in a certificated position in the public schools shall be appointed as a school board member.

(e) Three members who shall be representatives of the public. No person who is or has been employed in a certificated position in the public schools or who is or has been a member of any governing board of a school district or county board of education within the five years next preceding date of appointment shall be appointed as a public member.

The additional public members of the committee provided for in this section as amended during the 1977–78 Regular Session, shall be appointed by the commission as vacancies in the committee occur, consistent with the requirements of professional representation.

CHAPTER 827

An act to amend Sections 1463, 1463.5a, and 1463.6 of the Penal Code, relating to disposition of fines, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1979. Filed with Secretary of State September 20, 1979.]

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	40
Cotati	40
Healdsburg	40
Petaluma	24
Rohnert Park	40
Santa Rosa	40
Sebastopol	40
Sonoma	40
County percentage	40
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. Section 1463 5a of the Penal Code is amended to read:

1463.5a. (1) Notwithstanding any other provision of law, a municipal or justice court shall either authorize the California State University and Colleges or any campus thereof to receive, deposit, accept forfeiture and otherwise process the posting of bail for parking violations for which the California State University and Colleges has issued a written notice of parking violation pursuant to

Section 41103 of the Vehicle Code within the judicial district, or the court shall receive, deposit, accept forfeiture and otherwise process the posting of bail for parking violations.

(2) Notwithstanding the provisions of subdivision (1) of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred, once a month, into the State Treasury to the credit of the State College Parking Revenue Fund 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 or notified by a member of the state college police and charged with a violation of parking regulations adopted by or with the sanction of the trustees of the California State University and Colleges pursuant to subdivision (a) of Section 21113 of the Vehicle Code which are applicable to parking upon property under the possession or control of the trustees, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county

(3) If the moneys are deposited directly with the California State University and Colleges or any campus thereof and forfeited pursuant to subdivision (1) of this section, all such moneys shall be transferred, once a month, into the State Treasury to the credit of the State College Parking Revenue Fund.

SEC. 3. Section 1463.6 of the Penal Code is amended to read.

1463 6. (1) Notwithstanding any other provision of law, a municipal or justice court shall either authorize the Regents of the University of California to receive, deposit, accept forfeiture and otherwise process the posting of bail for parking violations for which the Regents of the University of California has issued a written notice of parking violation pursuant to Section 41103 of the Vehicle Code within the judicial district, or the court shall receive, deposit, accept forfeiture and otherwise process the posting of bail for such parking violations Notwithstanding subdivision (1) of Section 1463, if the court makes such authorization, the Regents may retain the forfeited bail collected

(2) Notwithstanding the provisions of subdivision (1) 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 Regents of the University of California an amount equal to 50 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 University of California Police and charged with a violation of parking regulations adopted by or with the sanction of the Regents of the University of California pursuant to subdivision (a) of Section 21113 of the Vehicle Code which are applicable to parking upon property within the county under the possession or control of the regents, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue

and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 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:

During the past year certain municipal courts have refused to process parking violations and this has significantly affected the enforcement authority of certain issuing agencies. Therefore, an immediate clarification in the law is necessary to enable issuing agencies to exercise this authority and avoid parking, liability and conflicting claims problems which potentially exist under the current situation.

CHAPTER 828

An act to amend Sections 5451 and 5501 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 20, 1979 Filed with Secretary of State September 20, 1979]

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

SECTION 1. Section 5451 of the Labor Code is amended to read:

5451. Any party may consult with, or seek the advice of, an information and assistance officer within the Division of Industrial Accidents as designated by the administrative director. If no application is filed, if the employee is not represented, or upon agreement of the parties, the information and assistance officer shall consider the contentions of the parties and may refer the matter to the appropriate bureau or unit within the Division of Industrial Accidents for review and recommendations. The information and assistance officer shall advise the employer and the employee of their rights, benefits, and obligations under this division. Upon making such a referral, the information and assistance officer shall arrange for a copy of any pertinent material submitted to be served upon the parties or their representatives, if any. The procedures to be followed by the information and assistance officer shall be governed by the rules and regulations of the administrative director adopted after public hearings

SEC. 2. Section 5501 of the Labor Code is amended to read:

5501 The application may be filed with the appeals board by any party in interest, his attorney, or other representative authorized in writing. Upon the filing of the application, the appeals board shall, where the applicant is represented by an attorney or other representative, serve a conformed copy of the application showing the date of filing and the case number upon applicant's attorney or representative. The applicant's attorney or representative shall, upon receipt of the conformed copy, forthwith serve a copy of the conformed application upon all other parties to the claim. If the applicant is unrepresented, a copy thereof shall forthwith be served upon all adverse parties by the appeals board.

CHAPTER 829

An act to amend Section 1422 of the Health and Safety Code, relating to health

[Approved by Governor September 20, 1979 Filed with Secretary of State September 20, 1979]

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

SECTION 1. Section 1422 of the Health and Safety Code is amended to read:

1422. The state department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to Section 1419, conduct at least one licensure inspection and as many additional inspections as may be necessary to rectify problems identified in prior inspections, in every calendar year of all long-term health care facilities in the state without providing notice of such inspections.

CHAPTER 830

An act to add Section 44928 to the Education Code, relating to schools.

[Approved by Governor September 20, 1979. Filed with Secretary of State September 20, 1979]

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

SECTION 1 Section 44928 is added to the Education Code, to read:

44928. No school in any school district having an average daily attendance in excess of 400,000 shall have at any time a certificated teaching staff, excluding substitutes employed pursuant to Section 45030, of whom more than 5 percent have only an emergency

credential.

This section does not apply to emergency credentials for bilingual education or for education of the learning handicapped, severely handicapped, physically handicapped, or to any other emergency credential established for the purposes of special education.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 831

An act to amend Sections 22651, 22655, 22656, and 22702 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1979 Filed with Secretary of State September 20, 1979.]

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

SECTION 1. Section 22651 of the Vehicle Code is amended to read:

22651. Any member of the California Highway Patrol; any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located; any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located; any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located; any police officer appointed or employed by the board of directors of a regional park district on or about lands, grounds, or properties owned, operated, or administered by the regional park district on or in which a vehicle is located; a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or city policeman as provided by Section 830.6 of the Penal Code; or any member of the California State Police as identified in subdivision (b)

of Section 830.2 of the Penal Code; may remove a vehicle from a highway under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move such vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move such vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such

person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilitites, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

SEC. 1.5. Section 22651 of the Vehicle Code is amended to read:

22651. Any member of the California Highway Patrol; any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located; any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located; any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and

regulations, of a city or a county in which a vehicle is located; or any police officer appointed or employed by the board of directors of a regional park district on or about lands, grounds, or properties owned, operated, or administered by the regional park district on or in which a vehicle is located; any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation on or in which a vehicle is located; a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or city policeman as provided by Section 830.6 of the Penal Code; or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code; may remove a vehicle from a highway under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move such vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move such vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person

furnishes to the impounding law enforcement agency evidcence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

SEC. 2. Section 22655 of the Vehicle Code is amended to read·

22655. When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions

of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or city policeman as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway for the purpose of inspection. Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

SEC. 2.2. Section 22655 of the Vehicle Code is amended to read:

22655. (a) When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman

as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited, has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle.

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC. 2.3. Section 22655 of the Vehicle Code is amended to read:

22655. When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may

remove the vehicle from the highway for the purpose of inspection. Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

SEC. 2.4. Section 22655 of the Vehicle Code is amended to read:

22655. (a) When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited, has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC. 3. Section 22656 of the Vehicle Code is amended to read:

22656 Any member of the California Highway Patrol, or any regularly employed and salaried officer of a railroad, commissioned by the Governor pursuant to Section 8226 of the Public Utilities

Code, or any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located, or any regularly employed and salaried officer of a police department in a city in which a vehicle is located, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties on or in which a vehicle is located, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located, or any regularly employed and salaried officer of a California state university or college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located, or any regularly employed and salaried officer of a transit district security force on or about parking lots owned by the transit district or in or about other grounds or properties owned, operated, controlled, or administered by the board of directors of the transit district on or in which a vehicle is located, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by such regional park district on or in which a vehicle is located, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code, may remove a vehicle from a railroad right-of-way if the vehicle is parked upon any railroad track or within 7½ feet of the nearest rail.

SEC. 3.5. Section 22656 of the Vehicle Code is amended to read:

22656. Any member of the California Highway Patrol; any regularly employed and salaried officer of a railroad, commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code; any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried officer of the California State Police on or about state grounds or properties on or in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located; any regularly employed and salaried officer of a California state university or college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located; any regularly employed and salaried officer of a transit district security

force on or about parking lots owned by the transit district or in or about other grounds or properties owned, operated, controlled, or administered by the board of directors of the transit district on or in which a vehicle is located; any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by such regional park district on or in which a vehicle is located; any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation on or in which a vehicle is located; or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code, may remove a vehicle from a railroad right-of-way if the vehicle is parked upon any railroad track or within 7½ feet of the nearest rail.

SEC 4. Section 22702 of the Vehicle Code is amended to read:

22702 (a) Any member of the California Highway Patrol or any regularly employed and salaried deputy sheriff or other employee of the county designated to perform this function by the board of supervisors in which a vehicle is located or any regularly employed and salaried police officer or other employee of the city designated to perform this function by the city council, or a qualified person deputized or appointed by the proper authority as a reserve deputy sheriff or city policeman as provided by Section 830.6 of the Penal Code, in which a vehicle is located who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property.

(b) Any member of the California State Police who has reasonable grounds to believe that a vehicle has been abandoned upon property owned by the state or rented or leased from others by the state, or property of a district agricultural association as to which the California State Police is providing policing services, may remove the vehicle from such property.

(c) Any regularly employed and salaried officer or other employee of the University of California Police Department who has reasonable grounds to believe that a vehicle has been abandoned on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California may remove the vehicle from such property.

(d) Any policeman appointed or employed by the board of directors of a regional park district who has reasonable grounds to believe that a vehicle has been abandoned upon property owned by the regional park district or rented or leased from others by the regional park district, may remove the vehicle from such property

(e) Any regularly employed and salaried officer or other employee of a California state university or college police department who has reasonable grounds to believe that a vehicle has

been abandoned on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, may remove the vehicle from such property.

(f) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a member of the California Highway Patrol or any regularly employed and salaried deputy or other employee of the sheriff's office, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff, of a county in which such vehicle is located or any regularly employed and salaried officer or other employee, or a qualified person deputized or appointed by proper authority as a city policeman as provided by Section 830.6 of the Penal Code, of a police department in a city in which such vehicle is located that such vehicle is abandoned.

(g) The public agency employing the officer shall make an appraisal of any such vehicle either prior to or within five days after removal.

(h) A county or city employee, other than an employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

(i) Any regularly employed and salaried officer of a transit district security force who has reasonable grounds to believe that a vehicle has been abandoned on property owned by the transit district or rented or leased from others by the transit district, may remove the vehicle from such property.

SEC. 4.5. Section 22702 of the Vehicle Code is amended to read:

22702. (a) Any member of the California Highway Patrol or any regularly employed and salaried deputy sheriff or other employee of the county designated to perform this function by the board of supervisors in which a vehicle is located or any regularly employed and salaried police officer or other employee of the city designated to perform this function by the city council, or a qualified person deputized or appointed by the proper authority as a reserve deputy sheriff or city policeman as provided by Section 830.6 of the Penal Code, in which a vehicle is located who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property.

(b) Any member of the California State Police who has reasonable grounds to believe that a vehicle has been abandoned upon property owned by the state, or rented or leased from others by the state, or property of a district agricultural association as to which the California State Police is providing policing services, may remove the vehicle from such property.

(c) Any regularly employed and salaried officer or other employee of the University of California Police Department who has reasonable grounds to believe that a vehicle has been abandoned on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California may remove the vehicle from such property.

(d) Any policeman appointed or employed by the board of directors of a regional park district who has reasonable grounds to believe that a vehicle has been abandoned upon property owned by the regional park district or rented or leased from others by the regional park district, may remove the vehicle from such property.

(e) Any regularly employed and salaried officer or other employee of a California state university or college police department who has reasonable grounds to believe that a vehicle has been abandoned on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, may remove the vehicle from such property.

(f) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a member of the California Highway Patrol or any regularly employed and salaried deputy or other employee of the sheriff's office, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff, of a county in which such vehicle is located or any regularly employed and salaried officer or other employee, or a qualified person deputized or appointed by proper authority as a city policeman as provided by Section 830.6 of the Penal Code, of a police department in a city in which such vehicle is located that such vehicle is abandoned.

(g) Any regularly employed and salaried officer of a transit district security force who has reasonable grounds to believe that a vehicle has been abandoned on property owned by the transit district or rented or leased from others by the transit district, may remove the vehicle from such property.

(h) Any peace officer appointed or employed by the Department of Parks and Recreation who has reasonable grounds to believe that a vehicle has been abandoned on or about property owned, operated, controlled, or administered by the Department of Parks and Recreation, may remove the vehicle from such property.

(i) The public agency employing the officer shall make an appraisal of any such vehicle either prior to or within five days after removal.

(j) A county or city employee, other than an employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the

California Highway Patrol located nearest to the vehicle.

SEC. 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections, because the Legislature finds and declares that there are no new duties, obligations, or responsibilities imposed on local government by this act that require reimbursement. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 6. It is the intent of the Legislature that if this bill and Senate Bill 173 or Senate Bill 380, or both, are chaptered and become effective January 1, 1980, each of the bills amends Section 22655 of the Vehicle 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 173 are both chaptered and become effective January 1, 1980, both bills amend Section 22655 of the Vehicle Code, but Senate Bill 380 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 173, the amendments proposed by both bills shall be given effect and incorporated in Section 22655 in the form set forth in Section 2.3 of this act Therefore, if this bill and Senate Bill 173 are both chaptered and become effective January 1, 1980, both bills amend Section 22655, this bill is chaptered after Senate Bill 173, and Senate Bill 380 is not chaptered or as chaptered does not amend that section, Section 2.3 of this act shall be operative and Sections 2, 2.2, and 2 4 of this act shall not become operative.

(2) If this bill and Senate Bill 380 are both chaptered and become effective January 1, 1980, both bills amend Section 22655 of the Vehicle Code, but Senate Bill 173 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 380, the amendments proposed by both bills shall be given effect and incorporated in Section 22655 in the form set forth in Section 2.4 of this act. Therefore, if this bill and Senate Bill 380 are both chaptered and become effective January 1, 1980, both bills amend Section 22655, this bill is chaptered after Senate Bill 380, and Senate Bill 173 is not chaptered or as chaptered does not amend that section, Section 2 4 shall be operative and Sections 2, 2.2, and 2.3 of this act shall not become operative.

(3) If this bill and Senate Bill 173 and Senate Bill 380 are all chaptered and become effective January 1, 1980, all three bills amend Section 22655 of the Vehicle Code, and this bill is chaptered after Senate Bill 173 and Senate Bill 380, the amendments proposed by all three bills shall be given effect and incorporated in Section 22655 in the form set forth in Section 2.2 of this act Therefore, if this bill and Senate Bill 173 and Senate Bill 380 are all chaptered and become effective January 1, 1980, all three bills amend Section 22655 of the Vehicle Code, and this bill is chaptered after Senate Bill 173 and Senate Bill 380, Section 2.2 of this act shall be operative and Sections

2, 2.3, and 2.4 of this act shall not become operative.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill 173 are both chaptered and become effective January 1, 1980, both bills amend Section 22651 of the Vehicle Code, and this bill is chaptered after Senate Bill 173, that the amendments to Section 22651 proposed by both bills be given effect and incorporated in Section 22651 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 173 are both chaptered and become effective January 1, 1980, both amend Section 22651, and this bill is chaptered after Senate Bill 173, in which case Section 1 of this act shall not become operative.

SEC. 8 It is the intent of the Legislature, if this bill and Senate Bill 173 are both chaptered and become effective January 1, 1980, both bills amend Section 22656 of the Vehicle Code and this bill is chaptered after Senate Bill 173, that the amendments to Section 22656 proposed by both bills be given effect and incorporated in Section 22656 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 173 are both chaptered and become effective January 1, 1980, both amend Section 22656, and this bill is chaptered after Senate Bill 173, in which case Section 3 of this act shall not become operative.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill 173 are both chaptered and become effective January 1, 1980, both bills amend Section 22702 of the Vehicle Code, and this bill is chaptered after Senate Bill 173, that the amendments to Section 22702 proposed by both bills be given effect and incorporated in Section 22702 in the form set forth in Section 4.5 of this act. Therefore, Section 4.5 of this act shall become operative only if this bill and Senate Bill 173 are both chaptered and become effective January 1, 1980, both amend Section 22702, and this bill is chaptered after Senate Bill 173, in which case Section 4 of this act shall not become operative.

CHAPTER 832

An act to add Section 25.9 to the Civil Code, and to add Section 1014.5 to the Evidence Code, relating to minors.

[Became law without Governor's signature September 21, 1979. Filed with Secretary of State September 21, 1979.]

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

SECTION 1. Section 25.9 is added to the Civil Code, to read:

25 9. (a) Notwithstanding any other provision of law, a minor who has attained the age of 12 years who, in the opinion of the

attending professional person, is mature enough to participate intelligently in mental health treatment or counseling on an outpatient basis, and (1) would present a danger of serious physical or mental harm to himself or herself or to others without such mental health treatment or counseling, or (2) has been the alleged victim of incest or child abuse, may give consent to the furnishing of such outpatient services. Such consent shall not be subject to disaffirmance because of minority. The consent of the parent, parents, or the legal guardian of the minor shall not be necessary to authorize the provision of such services. Mental health treatment or counseling of a minor as authorized by this section shall include the involvement of the minor's parent, parents, or legal guardian, unless in the opinion of the professional person who is treating or counseling the minor, such involvement would be inappropriate. Such person shall state in the client record whether and when he or she attempted to contact the parent, parents, or legal guardian of the minor, and whether such attempt to contact was successful or unsuccessful, or the reason why, in his or her opinion, it would be inappropriate to contact the parent, parents, or legal guardian of the minor.

(b) The parent, parents, or legal guardian of a minor shall not be liable for payment for any such mental health treatment or counseling services, as provided in subdivision (a), unless such parent, parents, or legal guardian participates in the mental health treatment or counseling and then only for the services rendered with such participation.

(c) As used in this section "mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any governmental agency, by a person or agency having a contract with a governmental agency to provide such services, by any agency which receives funding from community united funds, by runaway houses and crisis resolution centers, or by any private mental health professional, as defined in subdivision (d).

(d) As used in this section "professional person" means a person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Administrative Code; marriage, family, and child counselors as defined in Chapter 4 (commencing with Section 17800) of Part 3 of Division 7 of the Business and Professions Code; licensed educational psychologists as defined in Article 5 (commencing with Section 17860) of Chapter 4 of Part 3 of Division 7 of the Business and Professions Code; credentialed school psychologists as defined in Section 49424 of the Education Code; clinical psychologists, as defined in Section 1316 5 of the Health and Safety Code; and the chief administrators of any agency referred to in subdivision (c).

(e) The provisions of this section shall not be construed to authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and

Institutions Code, or psychotropic drugs without the consent of his or her parent or guardian.

SEC 2 Section 1014.5 is added to the Evidence Code, to read:

1014 5. Notwithstanding any other provision of law, with respect to situations in which a minor has requested and been given mental health treatment or counseling pursuant to Section 25.9 of the Civil Code, the professional person rendering such mental health treatment or counseling has the psychotherapist-patient privilege.

CHAPTER 833

An act to amend Sections 9891.1, 9891.25, and 9891.35 of the Business and Professions Code, relating to tax preparers.

[Became law without Governor's signature September 21, 1979 Filed with Secretary of State September 21, 1979]

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

SECTION 1 Section 9891 1 of the Business and Professions Code is amended to read

9891.1. As used in this chapter unless the context otherwise requires:

(a) "Tax preparer" means a person, other than an employee who, as part of the regular clerical duties of his employment, prepares his employer's tax returns or an employee, representative, partner, agent, officer or member of a registered tax preparer, who, for a fee, assists with or prepares tax returns for others A franchisee of a tax preparer is a separate tax preparer subject to the provisions of this chapter.

(b) "Division" means the Division of Consumer Services.

(c) "Director" means the Director of the Department of Consumer Affairs.

(d) "Chief" means the Chief of the Division of Consumer Services.

(e) "Fee" means any money or valuable consideration paid or promised to be paid for services rendered or to be rendered by any tax preparer.

(f) "Person" means an individual, firm, partnership, association, joint venture, or corporation.

(g) "Tax return" means any return, declaration, statement, refund claim or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes

(h) "Representative" means a person having the consent of the tax preparer, express or implied, to obtain information necessary for the preparation of the tax return, but who is subject to the right of direction of a tax preparer in the actual preparation of a tax return,

which tax preparer is the cosignator and final authority of all tax returns.

(i) "Franchisee" means a person, other than a representative, who enters into a contract or agreement, either express or implied, by which:

(1) Such person is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor; and

(2) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logo type, advertising, or other commercial symbol designating the franchisor or its affiliates; and

(3) The franchisee is required to pay, directly or indirectly, a franchisee fee.

SEC 2 Section 9891.25 of the Business and Professions Code is amended to read:

9891.25. (a) The chief may refuse to validate or may suspend or revoke, temporarily or permanently, the registration of a tax preparer for any of the following acts or omissions relating to preparing tax returns for others for a fee which are done by the tax preparer or any employee, representative, partner, agent, officer, or member of the tax preparer:

(1) Making, or authorizing the making of, any statement or representation, oral or written or recorded by any means, which is intended to induce persons to use the tax preparation service of the tax preparer, which statement or representation is fraudulent, untrue, or misleading.

(2) Obtaining the signature of a customer to a tax return or authorizing document which contains blank spaces to be filled in after it has been signed.

(3) Failing or refusing to give a customer, for his own records, a copy of any document requiring his signature, within a reasonable time after the customer signs such document.

(4) Failing to maintain a copy of any tax return prepared for a customer for four years from the date of completion or the due date of the return whichever is later.

(5) Engaging in any fraudulent conduct.

(6) Violating the advertising prohibitions set forth in this chapter.

(7) Failing to report changes in the information required by Section 9891.20 within 60 days.

(8) Violating the provisions of Section 17530.5.

(9) Violating the provisions of Section 7216 of the Internal Revenue Code.

(10) Failing to post the certificate of registration in the tax preparer's place of business so that it may easily be read by customers.

(11) Failing to sign a customer's tax return as prescribed by the chief

(12) Gross negligence.

(13) Failing to return, upon the demand by or on behalf of a client and after payment for services rendered, records or other data provided to the tax preparer by the client.

(14) Willfully misrepresenting any material fact in an application for registration or renewal of registration

(b) In addition to the grounds specified in subdivision (a), the chief may refuse to validate or may suspend or revoke, temporarily or permanently, the registration of a tax preparer if he enters a plea of guilty or nolo contendere to, or if he has been convicted of a crime which is substantially related to the qualifications, functions or duties of a tax preparer, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, or suspending the imposition of sentence, or of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty, or setting aside the plea or verdict of guilty, or dismissing the accusation or information.

SEC. 3. Section 9891 35 of the Business and Professions Code is amended to read

9891 35. A tax preparer shall deposit with the division, prior to registration or registration renewal, one of the following:

(a) A cash deposit in the penal sum of one thousand dollars ($1,000)

(b) A bond issued by an admitted surety payable to the people of the State of California in the penal sum of one thousand dollars ($1,000).

(c) Certificates of deposit in the penal sum of one thousand dollars ($1,000) assigned to the division on behalf of the people of the State of California issued by banks doing business in this state and insured by the Federal Deposit Insurance Corporation.

(d) Investment certificates or share accounts in the penal sum of one thousand dollars ($1,000) assigned to the division on behalf of the people of the State of California and issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation.

(e) Certificates for funds or share accounts in the penal sum of one thousand dollars ($1,000) assigned to the division on behalf of the people of the State of California and issued by a credit union, as defined in Section 14000 of the Financial Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Corporations

Any of the above forms of security shall be conditioned that the person applying for registration or registration renewal will comply with this chapter and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit or any unlawful acts or omissions by the tax preparer, or its agents, employees, or representatives while acting in the scope of their agency, employment or representation. The aggregate liability of the

surety shall in no event exceed the penal sum of the bond or deposit.

CHAPTER 834

An act to amend Sections 1136, 1165, and 1190 of the Harbors and Navigation Code, relating to pilots.

[Became law without Governor's signature September 21, 1979 Filed with Secretary of State September 21, 1979]

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

SECTION 1. Section 1136 of the Harbors and Navigation Code is amended to read:

1136. (a) Every pilot licensed pursuant to the terms of this division shall take an oath of office in the manner prescribed by law and shall, once each month, on forms furnished by the board, render a verified account to the board of all moneys received by him as a result of pilotage services, or by any other person for him, or on his account; and he shall pay to the board, exclusive of the amounts received that are attributable to the increase in pilotage rates and the minimum charge for bar pilotage made by the amendments of Section 1190 enacted at the 1975–76 Regular Session of the Legislature, the 1977–1978 Regular Session of the Legislature, and the 1979–80 Regular Session of the Legislature, 5 percent of all bar pilotage fees, or such lesser percentage as is established by the board, with the approval of the Department of Finance, in full compensation of the board for its official services, for the services of its secretary and treasurer, and for all its incidental expenses.

(b) It is the intent of the Legislature that moneys received that are attributable to the increase in pilotage rates and the minimum charge for bar pilotage made by the amendments of Section 1190 enacted at the 1975–76 Regular Session of the Legislature, the 1977–1978 Regular Session of the Legislature, and the 1979–80 Regular Session of the Legislature be used for increased operating and boatbuilding expenses incurred by pilots. It is further the intent of the Legislature that an accounting of such moneys shall be made by every pilot, at no cost to the state, to the board, or to any interested party, upon request

SEC 2 Section 1165 of the Harbors and Navigation Code is amended to read·

1165 (a) In addition to and concurrently with the basic pilotage rate described in Section 1190, a charge shall be levied for pilotage services at a rate necessary to provide the benefits to be paid out pursuant to the pension plan. The additional rate shall be determined as follows.

(1) On December 1, of each year, the number of persons eligible to receive benefits under the plan, their identities, the amount each

will be entitled to receive, and the total amount to be paid out to all such persons during each month of the next benefit year, shall be determined by the fiduciary agent.

(2) After the total amount to be paid out monthly under the plan has been determined, the rate necessary to provide that amount each month shall be calculated. The rate shall be based upon the volume of shipping, in gross registered tons, handled by pilots licensed under this division for the calendar year ending the previous September 30. The rate shall be expressed as mills per gross registered ton and shall be calculated to the nearest one-hundredth of a mill.

(3) Based on the foregoing calculations, if the total amount to be paid out yearly will exceed three hundred thousand dollars ($300,000), the rate shall be established so that the pension plan will produce maximum revenues of three hundred thousand dollars ($300,000) per year and the benefits shall be reduced accordingly.

(b) The rate determined pursuant to paragraphs (1), (2), and (3) of subdivision (a) shall become effective the first day of the following calendar year and shall be in effect throughout that year.

(c) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotages during that month or year.

(d) Benefits pursuant to the new rate shall be paid commencing in February of each year and shall continue through and include January of the following year. The period during which benefits are paid is the benefit year.

SEC. 3. Section 1190 of the Harbors and Navigation Code is amended to read:

1190 Every vessel spoken inward or outward bound, shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(a) Seven dollars and thirty-five cents ($7.35) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 15.75 mills ($0.01575) per high gross registered ton.

(b) A minimum charge for bar pilotage shall be three hundred dollars ($300) for each vessel piloted.

(c) The vessel's deepest draft shall be the maximum draft attained, on a still water basis, at any part of the vessel during the course of such transit inward or outward.

CHAPTER 835

An act to amend Sections 73642, 73643, 73644, 73952, 73953, 73953.1, 74342, 74343, 74343 1, 74350, 74357, 74361, 74364, 74374, 74376, 74742, 74743, 74746, and 74749 of, to add Section 53215 to, and to repeal Section 74343 2 of, the Government Code, relating to courts

[Became law without Governor's signature September 21, 1979 Filed with Secretary of State September 21, 1979.]

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

SECTION 1 Section 53215 is added to the Government Code, to read·

53215. A county or city and county which pays the salaries, either in whole or in part, of judges of the superior and municipal courts and the officers and attachés of such courts may allow such judges, officers, and attachés to participate in any deferred compensation plan established pursuant to this article. Any county or city and county is hereby authorized to enter into a written agreement with such judges, officers, and attachés providing for deferral of a portion of their wages. Such judges, officers, and attachés may authorize deductions to be made from their wages for the purpose of participating in such deferred compensation plan.

SEC 2. Section 73642 of the Government Code is amended to read.

73642 There shall be one clerk-administrative officer who shall be appointed by the judges of the court 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 Section 73643 of the Government Code is amended to read·

73643. The clerk-administrative officer may appoint with the approval of the judges:

(a) One assistant clerk-administrative officer. In no event shall the compensation of the assistant clerk-administrative officer be more than 20 percent below that specified for the assistant clerk of the San Diego Judicial District.

(b) Six supervising deputy clerks, each of whom shall receive a biweekly salary at a rate not less than 7.5 percent higher than that specified for deputy clerk IV

(c) Eleven deputy clerks IV, each of whom shall receive a biweekly salary at a rate equal to that specified for superior court clerk in the classified service of the County of San Diego.

(d) Thirteen deputy clerks III, each of whom shall receive a biweekly salary at a rate not less than 12.5 percent higher than that specified for deputy clerk II.

(e) Thirty-two deputy clerks II or I as the case may be. Each deputy clerk II shall receive a biweekly salary at a rate not less than 10 percent higher than that specified for deputy clerk I. Each deputy clerk I shall receive a biweekly salary at a rate equal to that specified for intermediate clerk-typist in the classified service of the County of San Diego

(f) Four deputy clerks who shall be data entry operators, each of whom shall receive a biweekly salary at a rate equal to that for data entry operator in the classified service of San Diego County. At the election of the clerk-administrative officer, one of such deputy clerks may be assigned as data entry supervisor and upon such assignment shall receive a biweekly salary at a rate 5 percent higher than that specified herein.

(g) One deputy clerk interpreter who shall receive a biweekly salary at the rate specified for deputy clerk III.

(h) Any deputy clerk occupying a position specified in subdivision (d) or (e) and performing as a certified interpreter shall be paid additional compensation at the biweekly rate specified for bilingual ability in the salary ordinance of the County of San Diego.

The value in dollars of each salary provided for herein shall be at the rates indicated opposite the respective deputy clerk category in the salary schedule incorporated by Section 74343.1, and the provisions of subdivisions (a), (b), (c), (d), and (e) of that section are applicable to the attachés appointed pursuant to this section. In no event shall the salary of the clerk-administrative officer, assistant clerk-administrative officer or any deputy clerk who occupied his position on the day prior to the effective date of this section be less than his salary on such day.

SEC. 4. Section 73644 of the Government Code is amended to read:

73644 By order entered in the minutes of the court, a majority of judges may appoint two judicial secretaries who shall be attachés of the court. The judicial secretary shall receive a biweekly salary at the rate equal to that specified for assistant secretary of the Superior Court of the County of San Diego commencing at step D at initial employment and advancing to step E at the end of one year of continuous service.

The position of judicial secretary shall be deemed comparable to the position of assistant secretary authorized by Section 69892. Whenever the salary of assistant secretary is adjusted by the board of supervisors, a commensurate adjustment shall be made to the salary of the judicial secretaries and shall be effective on the same date as the effective date of the assistant secretary salary adjustment. But any such adjustment shall not be more than 20 percent higher or 20 percent lower than the range specified by this section and shall be effective only until January 1, 1982.

Notwithstanding the provisions of Section 73648, the judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for by rule for the assistant secretaries of the Superior Court of the County of San Diego by the judges thereof.

SEC. 5. Section 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. 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. 6 Section 73953 of the Government Code is amended to read:

73953. The clerk-administrative officer may appoint:

(a) One assistant clerk-administrative officer. In no event shall the compensation of the assistant clerk-administrative officer be more than 20 percent below that specified for the assistant clerk-administrative officer of the San Diego Judicial District.

(b) Two deputy clerks who shall be chief clerks of divisions and who shall receive a biweekly salary at a rate not less than 15 percent higher than that specified for assistant chief clerk of division.

(c) Two deputy clerks who shall be assistant chief clerks of division and who shall receive a biweekly salary at a rate not less than 7½ percent higher than that specified for supervising deputy clerk.

(d) Two supervising deputy clerks who shall receive the biweekly salary at a rate not less than 7½ percent higher than that specified for deputy clerk IV

(e) Eleven deputy clerks IV, each of whom shall receive the biweekly salary at a rate equal to that specified for superior court clerks in the classified service of San Diego County

(f) Twenty-nine deputy clerks III, each of whom shall receive the biweekly salary at a rate not less than 12½ percent higher than that specified for deputy clerk II.

(g) Twenty-eight deputy clerks II or I, as the case may be. Each deputy clerk II shall receive the biweekly salary at a rate not less than 10 percent higher than that specified for deputy clerk I. Each deputy clerk I shall receive the biweekly salary equal to that specified for intermediate clerk typists in the classified service of San Diego County.

(h) Two deputy clerk data entry operators, each of whom shall receive the biweekly salary at a rate equal to that specified for data entry operators in the classified service of San Diego County.

(i) One deputy clerk stenographer who shall receive a biweekly salary at a rate equal to that specified for secretary II in the classified service of San Diego County.

(j) One deputy clerk interpreter who shall receive the biweekly salary at the rate equal to that specified for deputy clerk III

(k) One judicial secretary, who shall receive a biweekly salary at a rate equal to that specified for assistant secretary (judicial) of the Superior Court of the County of San Diego

(*l*) Any person occupying a position specified in subdivision (f) or (g) and performing as a certified interpreter shall be paid additional compensation at the biweekly rate specified for bilinqual ability in the salary ordinance of the County of San Diego.

The value in dollars of each salary provided for herein shall be at the rates indicated opposite the respective deputy clerk category in the salary schedule incorporated by Section 74343 1, and the provisions of subdivisions (a), (b), (c), (d), (e), and (f) of that section are applicable to the attachés appointed pursuant to this section In no event shall the salary of the clerk-administrative officer, assistant clerk-administrative officer or any deputy clerk who occupied his position on the day prior to the effective date of this section be less than his salary on such day.

SEC. 7. Section 73953.1 of the Government Code is amended to read:

73953.1. In the event that there shall be an increase in the number of judges, the clerk-administrative officer may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II and one deputy clerk I for each respective additional judge. Such additional deputy clerks shall receive a biweekly salary at a rate specified by Section 73953.

SEC 8. Section 74342 of the Government Code is amended to read·

74342. There shall be one clerk and administrative officer who shall be appointed by a majority of the judges of the court and who, notwithstanding the provisions of Section 74343.1, shall serve at the pleasure of the judges. He or she shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343 1. In no event shall the compensation of the clerk be less than 30 percent higher than that specified for the position of assistant clerk

SEC. 9 Section 74343 of the Government Code is amended to read:

74343. The clerk may appoint·

(a) One assistant clerk, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the clerk in the event that the clerk is absent or unavailable for any reason and who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1. In no event shall the compensation of the assistant clerk be less than 37½ percent higher than that specified for the position of chief clerk.

(b) Five deputy clerks who shall be chief clerks in the administrative, civil, criminal, traffic, and accounting divisions of the court, and who shall receive a biweekly salary at the rate specified in the salary schedule provided in Section 74343.1.

(c) Five deputy clerks who shall be assistant chief clerks of division and who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1.

(d) Five supervising deputy clerks who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1.

(e) Thirty-nine deputy clerks IV, each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343 1.

(f) One deputy clerk data entry supervisor who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343 1

(g) Thirty-seven deputy clerks III, each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1.

(h) Forty-three deputy clerks II, each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343 1.

(i) Seventy deputy clerks I, each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343 1

(j) Eleven deputy clerk data entry operators who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343 1

(k) Four deputy clerk interpreters, each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1.

(*l*) The seven deputy clerks assigned by the clerk of the court as clerks in the presiding department, criminal arraignment departments (two deputies), traffic arraignment departments (two deputies), special proceedings department, and setting and motion department, while serving in those capacities, shall receive a biweekly salary at a rate 5 percent higher than that which such deputy clerks were receiving prior to such assignment

SEC. 10. Section 74343.1 of the Government Code is amended to read

74343.1. The salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel is adopted and by reference incorporated herein.

(a) The following biweekly salary schedule, which is consistent with the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel and by reference incorporated herein, shall apply to the personnel of the municipal courts within the County of San Diego, and whenever reference to a salary range is made in any section of this article, this schedule of biweekly salaries shall apply:

Municipal Court Classification	*Step A*	*Step B*	*Step C*	*Step D*	*Step E*
Clerk/ Administrative Officer ..	$1314.60	$1380.80	$1449.60	$1522.40	$1598.40
Asst Clerk/ Administrative Officer . . .	981 60	1030.40	1080.00	1135.20	1192.00
Deputy Clerk,					

Chief Clerk ..	680.00	713.60	749.60	787 20	827.20
Deputy Clerk, Asst. Chief Clerk	588.00	616.80	647.20	680 00	713.60
Supervising Deputy Clerk	546.40	573 60	602.40	631.20	663 20
Deputy Clerk IV	508.00	532.80	560.00	588.00	616.80
Deputy Clerk III.....	388.80	408.00	428.80	449.60	472 00
Deputy Clerk II	344.80	361.60	380 00	398.40	418 40
Deputy Clerk I	312.80	328.00	344.80	361.60	380.00
Deputy Clerk–Interpreter	388.80	408.00	428 80	449.60	472 00
Deputy Clerk Data Entry Supervisor .	370 40	388.80	408.00	428.80	449 60
Deputy Clerk Data Entry Operator	329.60	346.40	363.20	381 60	400 00
Chief Judicial Secretary	—	—	—	—	597 60
Judicial Secretary	—	—	—	484.00	508 80

(b) Unless otherwise specifically provided, each person appointed or promoted to a position, the compensation of which is fixed by reference to the salary schedule set forth in this section, shall, for the first six months of service, receive biweekly the rate of compensation specified in step A of the salary schedule for the position to which he is appointed. Upon the first day of the pay period following six months continuous service in step A, the initial rate of compensation of such person shall be increased to step B of the salary schedule for the position occupied. Upon the first day of the pay period following six months continuous service in step B, the initial rate of compensation of such person shall be increased to step C of the salary schedule for the position occupied On and after the first day of the pay period following six months of continuous service at step C, such compensation shall be increased to step D of the salary schedule. On and after the first day of the pay period following 12 months of continuous service at step D, such compensation shall be increased to step E of the salary schedule

The provisions of this subdivision shall not apply to any person employed on and after January 1, 1975, and any such person shall be entitled to receive the same step increases as set forth in the salary ordinance of the County of San Diego in effect July 1, 1974, for those persons employed by the County of San Diego on or after July 1, 1974

(c) When any person in the service of the County of San Diego

or in the service of another municipal court in San Diego County is appointed to a position in the service of the court compensated at a higher salary range than the salary range for the position relinquished or when any person in the service of the court is appointed or promoted to another position in such service compensated at a higher salary, he or she shall receive step A of such schedule if step A is at least one step higher than the salary received in the position relinquished; but if not, he or she shall receive initially that step schedule pertaining to such position which will provide a one-step increase in his or her compensation.

(d) Officers and attachés may be voluntarily transferred from a position in the service of a court in one judicial district to a position in the service of a court in another judicial district within the County of San Diego, from a position in the service of the County of San Diego to a position in the service of a court, from a position in the service of a court to a position in the service of the County of San Diego, or between the offices of clerk and marshal in the same manner that classified employees of the County of San Diego may be transferred between departments of the county. In determining the step of the salary schedule at which such transferred employee shall be paid, the employee may be given credit for continuous prior service in the service of the court or the County of San Diego from which he or she was transferred.

(e) When any person in the service of the court is demoted to another position he or she shall receive compensation at the highest step of the salary schedule applicable to the position to which he or she is demoted which provides a salary not higher than that previously received by such person, except that if such demotion is due to disciplinary action, the appointing authority may specify any step rate of such schedule which provides compensation not higher than that last previously received by such person.

(f) The hereinafter enumerated classes of positions in the court are deemed to be comparable in job level to certain classifications in the civil service of San Diego County and whenever the salaries of such classifications in the service of San Diego County are adjusted by the board of supervisors, the salaries of the comparable classifications in the clerk's office shall be adjusted a commensurate percentage in the salary schedule. Such adjustment shall not be more than 20 percent higher or 20 percent lower than the salary schedule specified in this article. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event that the salary of any of the San Diego County classifications listed in this section are adjusted by the board of supervisors on any day prior to the effective date of any amendments to this article enacted by the Legislature at the 1979–80 Regular Session of the Legislature, commensurate adjustments shall be applied to the salaries of the comparable classifications in the clerk's office, such adjustments to take effect on the effective date of any amendments to this article

enacted at the 1979–80 Regular Session of the Legislature Any salary adjustments made as a result of this section shall be effective only until January 1, 1982

The comparable classifications are as follows

Municipal court classification	*County classification*
Deputy clerk, chief clerk	Superior court clerk
Deputy clerk, assistant chief clerk	Superior court clerk
Deputy clerk I	Intermediate clerk
Deputy clerk II	Intermediate clerk
Deputy clerk III	Senior clerk
Deputy clerk IV	Superior court clerk
Supervising deputy clerk	Superior court clerk
Deputy clerk data entry supervisor	Data entry supervisor
Deputy clerk data entry operator	Data entry operator
Deputy clerk interpreter	Senior clerk
Deputy clerk stenographer	Secretary II

SEC 11 Section 74343.2 of the Government Code is repealed

SEC 12 Section 74350 of the Government Code is amended to read

74350 (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in Section 74341 1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board For purposes of this subdivision only, the clerk and assistant clerk shall receive the same privileges and benefits as are received by the classifications of probation officer, of the classified service of the County of San Diego The term "same privileges and benefits" for the purposes of this section shall include, but not be limited to, any benefits which are

available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

SEC. 13. Section 74357 of the Government Code is amended to read.

74357. By order entered upon the minutes of the court, a majority of the judges of the Municipal Court of the San Diego Judicial District may appoint as many competent judicial secretaries as the business of the court requires, not to exceed five, who shall be attachés of the court and who are to hold office during the pleasure of the judges of the court. One secretary shall be appointed by the presiding judge as the chief judicial secretary, who, while serving in that capacity, shall receive a biweekly salary at step E of the rate specified in the salary schedule provided in Section 74343.1.

Each judicial secretary other than the chief judicial secretary shall receive a biweekly salary at the rate specified in the salary schedule provided in Section 74343.1 commencing at step D at initial employment and advancing to step E at the end of one year of continuous service The value in dollars, of each biweekly salary herein shall be at the rates indicated opposite the respective salary schedule as provided in Section 74343.1

The position of chief judicial secretary shall be deemed to be comparable in job level to the position of senior assistant secretary authorized by Section 69892. The position of judicial secretary shall

be deemed to be comparable in job level to the position of assistant secretary authorized by Section 69892. Whenever the salaries of senior assistant secretary and assistant secretary are adjusted by the Board of Supervisors of San Diego County, the salaries of chief judicial secretary and judicial secretaries shall be adjusted a commensurate percentage in the salary schedule. Such adjustment shall not be more than 20 percent higher or 20 percent lower than the salary schedule in this section and shall be effective on the same date as the effective date of the action by the board of supervisors on the positions of senior assistant secretary and assistant secretaries Any salary adjustment made as a result of this section shall be effective only until January 1, 1982.

Notwithstanding the provisions of Section 74350, the chief judicial secretary and judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for by rule for the senior assistant and assistant secretaries of the Superior Court of the County of San Diego by the judges thereof

SEC. 14. Section 74361 of the Government Code is amended to read.

74361. There shall be one marshal for all municipal courts established in judicial districts in San Diego County who shall be appointed pursuant to this article. In no event shall the compensation of the marshal be less than 30 percent higher than that specified for the position of assistant marshal. Unless entitled to a higher range under the provisions of subdivision (c) of Section 74350, appointment to the position of marshal shall be made at the C step

SEC. 15. Section 74364 of the Government Code is amended to read:

74364. The marshal may make the following appointments each of whom shall receive the biweekly compensation as specified in the salary schedule incorporated by Section 74343.1:

(a) One assistant marshal. In no event shall the compensation of the assistant marshal be less than 20 percent higher than that specified for the position of captain.

(b) Three captains.

(c) Four lieutenants. A lieutenant, first employed prior to April 1, 1979, shall be compensated at a biweekly rate 2½ percent higher than prescribed in this section when in possession of an advanced peace officer standards and training certificate.

(d) Fourteen sergeants. A sergeant, first employed prior to April 1, 1979, shall be compensated at a biweekly rate 2½ percent higher than prescribed in this section when in possession of an advanced peace officer standards and training certificate.

(e) One hundred thirty-one deputy marshals. A deputy marshal who was employed as a deputy marshal in the San Diego County Municipal Courts or an equivalent classification in the San Diego County classified service prior to April 1, 1979, shall be compensated at a biweekly rate 5 percent higher than prescribed in this

subdivision when in possession of a basic peace officers standards and training certificate; 10 percent higher than prescribed in this subdivision when in possession of an intermediate peace officer standards and training certificate; and 12½ percent higher than prescribed in this subdivision when in possession of an advanced peace officer standards and training certificate. An employee who was employed as a deputy marshal or equivalent county classification on or after April 1, 1979, shall be paid twenty dollars ($20) per pay period when in possession of an intermediate peace officer standards and training certificate and, in addition, ten dollars ($10) per pay period when in possession of an advanced peace officer standards and training certificate.

Any deputy marshal who may be assigned by the marshal to one of seven positions designated as lead deputy, shall receive, while serving in that capacity, biweekly compensation at a rate 5 percent higher than that received by said deputy.

The marshal may, at his discretion, replace a deputy marshal position by accepting a lateral transfer from another California peace officer agency. Said transferee must be actively employed in a position enumerated in Penal Code Section 830.1 or 830.2 prior to the transfer.

Upon the effective date of this act each person who is in a deputy marshal II position shall succeed to a deputy marshal position and each person who is in a deputy marshal I position shall succeed to a deputy marshal trainee position without further examination or qualification.

(f) Two senior stenographers. Each vacancy occurring in this position shall cause a corresponding reduction in the number of senior stenographers hereby authorized; provided, however, that each of such vacancies shall increase by one a position designated as senior typist.

(g) One administrative assistant III or II.

(h) Twenty-five intermediate typists. The appointing authority may reclassify two positions of intermediate typist to communications dispatcher, under subdivision (s) of this section.

(i) Three senior typists.

(j) Eight deputy marshal-cadets. In no event shall a deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step At the time an incumbent in the position of deputy marshal-cadet attains the age of 21 he may be appointed by the marshal to a position of deputy marshal, providing such a position is open, without further qualification or examination.

(k) One supervising clerk. Upon reclassification of supervising clerk to principal clerk, the position of supervising clerk shall cease to exist.

(*l*) Three junior typists Each vacancy occurring in this position shall cause a corresponding reduction in the number of junior typists hereby authorized; provided, however, that such vacancy shall increase by one, a position designated as intermediate typist under

subdivision (h) of this section.

(m) One secretary II or I.

(n) Five legal procedures clerks II.

(o) Ten legal procedures clerks I.

(p) Every person specified in subdivision (f), (h), (i), (j), (k), (*l*), (m), (n), or (o) who works a night shift shall be paid an hourly bonus equivalent to that bonus paid to night shift workers in the classified service of San Diego County who are in the comparable positions specified in Section 74374. "Night shift" means an assigned work schedule of which not less than one-half of the total number of hours, plus one-half hour, are worked after 5 p m. and before 8 a.m

(q) Any person specified in subdivisions (f), (h), and (i), who may be assigned by the marshal to one of the positions designated as executive secretary, administrative-personnel secretary, or bookkeeping machine operator, shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified in such person's designated subdivision.

(r) Two principal clerks At the time the appointment to such second position is made, the position authorized in subdivision (k) shall be abolished, and such position shall thereafter cease to exist

(s) Two communications dispatchers. At the time the appointment to such positions are made, the marshal may designate two positions authorized in subdivision (h) to be abolished, and such positions shall thereafter cease to exist

(t) One Administrative Assistant II, I or trainee

SEC 16 Section 74374 of the Government Code is amended to read

74374. The hereinafter enumerated classes of positions in the marshal's office of the municipal courts in San Diego County are deemed to be equivalent in job, and salary level, and benefit level to certain classifications in the classified civil service of San Diego County and whenever the salary of a classification in the service of San Diego County is adjusted by the board of supervisors, the salary of the equivalent classification in the marshal's office shall be adjusted in the same amount. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event a system of merit pay increases is established by the County of San Diego for employees in a particular classification, like merit increases, if justified, may be authorized by the appointing authority for marshal's office employees who are in equivalent classifications. Any salary adjustments made as a result of this section shall be effective only until January 1, 1982.

The equivalent classifications are as follows

Municipal court marshal classification	*County classification*
Assistant marshal	Deputy sheriff-inspector
Captain	Deputy sheriff-captain

Lieutenant	Deputy sheriff-lieutenant
Sergeant	Deputy sheriff-sergeant
Deputy marshal	Deputy sheriff
Senior stenographer	Senior stenographer
Senior typist	Senior clerk typist
Intermediate typist	Intermediate clerk typist
Junior typist	Junior typist
Cadet	Deputy sheriff-cadet
Supervising clerk	Supervising clerk
Secretary II	Secretary II
Administrative assistant III	Administrative assistant III
Administrative assistant II	Administrative assistant II
Principal clerk	Principal clerk
Legal procedures clerk II	Legal procedures clerk II
Legal procedures clerk I	Legal procedures clerk I
Communications dispatcher	Communications dispatcher
Secretary I	Secretary I
Administrative assistant I	Administrative assistant I
Administrative trainee	Administrative trainee

Persons occupying positions in the above specified municipal court marshal classifications shall not be paid less salary than persons occupying positions in equivalent county classifications. In no event shall a deputy marshal receive less salary than that received by a deputy sheriff in the highest classification designated for deputy sheriffs by the County of San Diego. A change in title or designation for the position of top level deputy sheriff shall not affect the parity to this level granted to a deputy marshal.

SEC. 17. Section 74376 of the Government Code is amended to read:

74376. In the event that the number of judges, commissioners, or referees provided for any existing municipal court judicial district in the County of San Diego is increased, or that additional municipal court judicial districts are provided in the County of San Diego, thereby causing an increase in the number of judges, commissioners, or referees, the marshal of the municipal courts at his discretion may appoint one deputy marshal, and one intermediate typist or legal procedures clerk I, each of whom shall receive compensation as specified for their respective classifications, for each additional judge, commissioner, or referee appointed or elected.

SEC. 18. Section 74742 of the Government Code is amended to read:

74742. There shall be one clerk-administrative officer who shall be appointed by the judges of the court. 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 range unless the appointee is entitled to a higher step under the provisions of

subdivision (c) of Section 74350.

SEC. 19. Section 74743 of the Government Code is amended to read·

74743. The clerk-administrative officer may appoint with the approval of the judges

(a) One assistant clerk-administrative officer. In no event shall the compensation of the assistant clerk-administrative officer be more than 20 percent below that specified for the assistant clerk-administrative officer of the San Diego Judicial District.

(b) Five supervising deputy clerks each of whom shall receive a biweekly salary at a rate not less than 7.5 percent higher than that specified for deputy clerk IV.

(c) Nine deputy clerks IV, each of whom shall receive a biweekly salary equal to that specified for the classification of superior court clerk in the classified service of San Diego County.

(d) Thirteen deputy clerks III, each of whom shall receive a biweekly salary at a rate not less than 12.5 percent higher than that specified for deputy clerk II.

(e) Twenty-four deputy clerks II or I, as the case may be. Each of the deputy clerks II shall receive a biweekly salary at a rate not less than 10 percent higher than that specified for deputy clerk I. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk typist in the classified service of San Diego County.

(f) Three deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County

(g) One deputy clerk stenographer who shall receive a biweekly salary at a rate equal to that specified for secretary II in the classified service of San Diego County.

(h) One deputy clerk interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective deputy clerk classifications in the salary schedule incorporated by Section 74343.1. The provisions of subdivisions (a), (b), (c), (d), (e), and (f) of that section apply to the attachés appointed pursuant to this section. In no event shall the salary of the clerk or any deputy clerk who occupied his position on the day prior to the effective date of this section be less than his salary on such day.

SEC. 20. Section 74746 of the Government Code is amended to read:

74746 (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article

shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (e) of Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board.

For purposes of this subdivision only, the clerk and assistant clerk shall receive the same privileges and benefits as are received by the classification of probation officer of the classified service of the County of San Diego.

The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of the personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list, provided, that the number of such positions in the clerk's office

has been increased so as to make such temporary position a permanent position.

SEC. 21. Section 74749 of the Government Code is amended to read:

74749. By order entered in the minutes of the court, a majority of the judges of the court may appoint one judicial secretary to be known as judicial secretary of the court, who shall be an attaché of such court. The judicial secretary shall receive a biweekly salary at a rate equal to that specified for assistant secretary (judicial) of the Superior Court of the County of San Diego. Appointment to such position shall be at step D.

The position of judicial secretary shall be deemed comparable to the position of assistant secretary authorized by Section 69892. Whenever the salary of assistant secretary is adjusted by the board of supervisors, a commensurate adjustment shall be made to the salary of judicial secretary and shall be effective on the same date as the effective date of the assistant secretary salary adjustment.

Notwithstanding the provisions of Section 74746, the judicial secretary shall receive and be entitled to the same vacations, sick leave, leaves of absence, and similar privileges and benefits as are now or may hereafter be provided for by rule for the assistant secretaries of the Superior Court of the County of San Diego by the judges thereof.

SEC. 22. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 836

An act to amend Section 73667 of the Government Code, relating to courts.

[Became law without Governor's signature September 21, 1979. Filed with Secretary of State September 21, 1979.]

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

SECTION 1. Section 73667 of the Government Code is amended to read:

73667 The positions enumerated in Section 73666 are deemed to be equivalent in job and salary level to certain positions in the classified service of the merit system of the County of Humboldt, or

in some instances, to such positions with a range adjustment on the salary range schedule of the County of Humboldt. The following table sets forth the court classifications with the equivalent county classifications and appropriate range adjustment, if any, shown opposite thereto:

Court classification	County classification
Clerk	Supervising clerk plus 15 ranges
Chief deputy clerk	Senior clerk plus 2 ranges
Court clerk II	Senior clerk
Court clerk I	Account clerk
Marshal	Sheriff's lieutenant plus 2 ranges
Chief deputy marshal	Deputy sheriff II plus 3 ranges
Deputy marshal	Deputy sheriff II
Senior clerk-typist matron	Senior clerk-typist plus 2 ranges
Intermediate clerk-typist	Intermedite clerk-typist
Marshal's clerk	Intermediate clerk-typist plus 2 ranges

In the event that the salary for any county classification which is shown above is adjusted, then the salary for the equivalent court classification shall be automatically adjusted to the same amount, with an additional upward range adjustment on the salary range schedule of the County of Humboldt when such range adjustment is indicated in the above table. If the salary for any county classification which is shown above is adjusted prior to the effective date of this section, the resulting salary adjustment for the appropriate court classification shall become applicable on the effective date of this section Any salary adjustment for a court classification which results from this section shall be effective only until January 1, 1981

SEC 2. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code because this act is in accordance with a request of a local governmental entity which desires legislative authority to carry out the program specified in this act Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 837

An act to amend Section 2878.5 of, and to add Section 2878.7 to, the Business and Professions Code, relating to vocational nurses.

[Approved by Governor September 20, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 2878.5 of the Business and Professions Code is amended to read:

2878.5. In addition to other acts constituting unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any narcotic as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code.

(b) Use any narcotic as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of this code, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself, any other person, or the public, or to the extent that such use impairs his ability to conduct with safety to the public the practice authorized by his license.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in subdivision (b).

SEC. 2. Section 2878.7 is added to the Business and Professions Code, to read:

2878.7. A person whose license has been suspended or revoked may petition the board for reinstatement or reduction of penalty in accordance with Section 11522 of the Government Code. In determining whether reinstatement shall be granted or the penalty

reduced, the board shall consider all competent evidence of rehabilitation presented by the petitioner. The board shall have the authority to impose terms and conditions upon a reinstatement or reduction of penalty. Such terms and conditions may include, but are not limited to, the following:

(a) Requiring the petitioner to pursue specified remedial education and to pass an examination upon completion of the training.

(b) Requiring the petitioner to submit to a complete diagnostic examination by one or more physicians, or other health professionals licensed under this code, approved by the board.

(c) Restricting or limiting the extent, scope, or type of practice of the reinstated license holder.

(d) Requiring the petitioner to provide such reports as the board in its discretion may deem proper.

CHAPTER 838

An act to amend Section 81802 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 81802 of the Education Code is amended to read:

81802. (a) As used in this chapter, the term "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the acquisition and improvement of community college sites, the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, related facilities necessary for the instruction of students or for administration of the educational program, maintenance or utility facilities essential to the operation of the foregoing facilities, and the initial acquisition of equipment.

(b) A project may also include the reconstruction or remodeling of any facility leased from another public agency necessary for use as a classroom, library, or laboratory. The Chancellor's office shall require transfer to the community college district of title or other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been

transferred, the term of lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

(c) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of site for student or staff parking, or single-purpose auditoriums.

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 facilitate the inclusion of an appropriation for capital improvements to leased facilities in this year's budget, it is necessary that this act take effect immediately.

CHAPTER 839

An act to amend Sections 44502, 44504, and 44546 of, and to add Article 2 (commencing with Section 44515), Article 3 (commencing with Section 44525), Article 4 (commencing with Section 44530), Article 5 (commencing with Section 44540), and Article 6 (commencing with Section 44550) to, and to repeal Article 2 (commencing with Section 44520), Article 3 (commencing with Section 44540), and Article 4 (commencing with Section 44550) of, Chapter 1 of Division 27 of, the Health and Safety Code, relating to pollution control, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 44502 of the Health and Safety Code is amended to read:

44502 It is the purpose of this division to carry out and make effective the findings of the Legislature and to that end to provide industry within the state, irrespective of company size, with an alternative method of financing in providing, enlarging, and establishing pollution control facilities which are needed to accomplish the purposes of this division, all to the mutual benefit of the people of the state and to protect their health and welfare

SEC 2. Section 44504 of the Health and Safety Code is amended to read.

44504 "Authority" means the California Pollution Control

Financing Authority established pursuant to Section 44515 and any board, commission, department, or officer succeeding to the functions thereof or to whom the powers conferred upon the authority by this division shall be given by law.

SEC. 3. Article 2 (commencing with Section 44520) of Chapter 1 of Division 27 of the Health and Safety Code is repealed.

SEC. 4. Article 2 (commencing with Section 44515) is added to Chapter 1 of Division 27 of the Health and Safety Code, to read:

Article 2 Organization of Authority

44515. There is in the state government the California Pollution Control Financing Authority. The authority constitutes a public instrumentality and a political subdivision of the State of California, and the exercise by the authority of the powers conferred by this division shall be deemed and held to be the performance of an essential public function. The authority shall consist of three members: the Director of Finance, the State Treasurer, and the State Controller.

The Director of Finance may designate a deputy or clerk in his agency to act for him and represent him at all meetings of the authority.

The first meeting of the authority shall be convened by the Director of Finance.

44516. All members of the authority shall serve thereon without compensation as members of the authority.

44517. The authority shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it under this division.

44518. The authority shall maintain an office in the City of Sacramento.

44519. The authority may employ an executive secretary and such other persons as are necessary to enable it properly to perform the duties imposed upon it by this division.

44520. The authority shall, 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, adopt all necessary rules and regulations to carry out its powers and duties under this division. The authority may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively control pollution.

44521. (a) The Attorney General shall be the legal counsel for the authority, but with the approval of the Attorney General, the authority may employ such legal counsel as in its judgment is necessary or advisable to enable it to carry out the duties and functions imposed upon it by this division, including the employment of such bond counsel as may be deemed advisable in

connection with the issuance and sale of bonds.

(b) The State Treasurer shall be the treasurer for the authority.

44522. The authority is authorized and empowered:

(a) To adopt an official seal.

(b) To sue and be sued in its own name.

(c) To do all things generally necessary or convenient to carry out its powers and the purposes under this division.

44523. The authority shall approve any proposed project which qualifies for such financing under this chapter for a participating party whose long-term debt securities are rated "A" or better by Standard and Poor's or Moody's

SEC 5. Article 3 (commencing with Section 44525) is added to Chapter 1 of Division 27 of the Health and Safety Code, to read:

Article 3. Projects

44525 The authority may charge reasonable application and project fees to reimburse the authority for costs incurred in administering applications for financing pursuant to this division.

44526 The authority is authorized:

(a) To determine the location and character of any project to be financed under the provisions of this division, to lend financial assistance to any participating party, to construct, reconstruct, renovate, replace, lease, as lessor or lessee, and regulate the same, and to enter into contracts for the sale of any pollution control facilities, including installment sales or sales under conditional sales contracts, and to make loans to participating parties to lend financial assistance in the acquisition, construction, or installation of a project.

(b) To issue bonds, notes, bond anticipation notes, and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, all as provided in this division.

(c) To fix fees and charges for pollution control facilities, and to revise from time to time such fees and charges, and to collect rates, rents, fees, and charges for the use of and for any facilities or services furnished, or to be furnished, by a project or any part thereof and to contract with any person, partnership, association, corporation, or public agency with respect thereto, and to fix the terms and conditions upon which any pollution control facilities may be sold or disposed of, whether upon installment sales contracts or otherwise.

(d) To employ and fix the compensation of bond counsel, financial consultants, and advisers as may be necessary in its judgment in connection with the issuance and sale of any bonds, notes, bond anticipation notes, or other obligations of the authority, to contract for engineering, architectural, accounting, or other services of appropriate agencies as may be necessary in the judgment of the authority for the successful development of any project; and to pay the reasonable costs of consulting engineers, architects, accountants, and construction experts employed by any participating party if, in the judgment of the authority, such services are necessary to the

successful development of any project, and provided such services are not obtainable from any public agency.

(e) To do all things generally necessary or convenient to carry out the purposes of this division.

SEC. 6. Article 4 (commencing with Section 44530) is added to Chapter 1 of Division 27 of the Health and Safety Code, to read:

Article 4. General Powers and Duties

44530. All expenses incurred in carrying out the provisions of this division shall be payable solely from funds provided under the authority of this division and no liability or obligation shall be imposed upon the State of California and, except as provided in Section 44547, none shall be incurred by the authority beyond the extent to which moneys shall have been provided under the provisions of this division. Under no circumstances shall the authority create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than the moneys provided under the provisions of this division.

44531. (a) All projects shall be constructed or completed subject to the rules and regulations of the authority.

(b) The authority is authorized to acquire, by deed, purchase, lease, contract, gift, devise, or otherwise, any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands located within this state necessary or convenient for the construction or operation of a project, upon such terms and conditions as it deems advisable, and to lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objects and purposes of this division. Nothing in this division shall authorize the authority to exercise the power of eminent domain.

44532. When the principal of and interest on bonds of the authority issued to finance the cost of a particular project for a participating party, including any refunding bonds issued to refund and refinance such bonds, shall have been fully paid and retired or when adequate provision shall have been made for the payment and retirement of the same, and all other conditions of the resolution, indenture, or agreement authorizing and securing the same shall have been satisfied and the lien of such resolution, indenture, or agreement shall have been released in accordance with the provisions thereof, the authority is authorized, upon such terms and conditions as may be prescribed by the authority, to execute such deeds and conveyances as are necessary or required to convey title to such project to such participating party.

44533. (a) No project, or portion thereof, shall be eligible for financing under this division for which, at the time an application is submitted to the authority, financing has been otherwise obtained.

(b) No project relating to the improvement of air or water quality or solid waste control shall be eligible for financing under this

division unless, prior to the issuance of bonds or notes, a local, regional, state, or federal environmental authority exercising jurisdiction over the project certifies that the project, as designed, will further compliance with federal, state or local pollution control standards and requirements. Within 60 days of the receipt of a written request for such certification by either the authority or a participating party, any such local, regional, state or federal authority shall issue a written certificate to such effect if, in fact, the project as designed, is in furtherance of such purposes. The certification requirements of this subdivision may be waived by the authority, at the request of the participating party, if such certification is not necessary to qualify the bonds or notes for tax-exempt status under federal laws and regulations.

(c) No certification issued pursuant to subdivision (b) shall be admissible in evidence, constitute an admission, or bind any certifying authority in any proceeding in which the compliance of a participating party's facilities with any applicable pollution control, land use, zoning or other similar law is an issue or in any application or proceeding for a permit to locate or construct facilities.

44534. (a) The authority shall take initial action on any completed application for financing submitted to it by a participating party at the next meeting of the authority which occurs more than 10 days following receipt of such application.

(b) The authority shall take final action to approve the issuance of bonds or notes to lend financial assistance to a participating party within the following time periods:

(1) With respect to a participating party whose long-term debt securities are rated "A" or better by Standard and Poor's or Moody's, the authority shall take action at its next meeting which occurs more than 10 days following receipt by the authority of a request from such participating party for the issuance of bonds or notes.

(2) With respect to a participating party not described in paragraph (1), the authority shall take action within 60 days of receipt by the authority of a request from such participating party for the issuance of bonds or notes.

A request from a participating party for final approval of the issuance of bonds or notes shall be accompanied by evidence of fulfillment of all conditions to the issuance of such bonds or notes and by copies of forms of all principal legal documents to be approved by the authority, which must be satisfactory in form and substance to the Attorney General

(c) The authority may give final approval for the issuance of bonds or notes upon such terms as it deems necessary and desirable, provided that:

(1) With respect to participating parties described by paragraph (1) of subdivision (b), the authority shall approve the sale of bonds and notes at such price and upon such terms and conditions as are acceptable to the proposed purchasers of such bonds and notes.

(2) The authority may, in its discretion, give final approval to the

issuance of bonds or notes prior to receipt of the certificate described in subdivision (b) of Section 44533.

44535. The authority may separately approve financing for projects the purpose of which is to prevent or reduce environmental pollution resulting from the disposal of solid or liquid waste.

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.

(c) Other projects for the reduction of environmental pollution resulting from the disposal of solid or liquid waste.

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 or liquid waste disposal facilities involved in resource recovery systems. "Solid or liquid waste disposal facilities" means any property, or portion thereof, used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste in resource recovery systems

44536 The authority may approve financing for projects which finance pollution control equipment for a facility which is not owned by the applicant if such equipment is a component of an approved trade off package to achieve air quality standards

44537. Prior to the beginning of each calendar quarter, the authority shall obtain from the appropriate state control agencies a list of the names and addresses of those business associations, corporations, or individuals which have been required, by a specified deadline, to correct pollution problems caused by existing facilities. The authority shall notify such business associations, corporations, or individuals of its programs for financing pollution control facilities.

In addition, the authority shall take all reasonable steps to publicize its programs so that eligible applicants may be aware of them.

44537 5. The authority shall provide maximum opportunity for use of their financing by individuals and small businesses or corporations by providing information, assistance, and coordination to facilitate financing for small projects.

44538. The authority, no later than March 1 of each year, shall submit to the Legislature a report of its activities for the preceding calendar year ended December 31. Such report shall include (1) a listing of applications received, (2) a listing of applications accepted for financing, (3) specification of bonds sold, interest rates thereon, and whether bond sales were pursuant to public bid or were negotiated, (4) specification of the amount of bonds authorized but currently unsold, (5) a projection of the authority's needs and requirements for the coming year, and (6) a report of revenues and expenditures for the preceding fiscal year. The Legislative Analyst and the State Treasurer shall review the report and individually

advise the Legislature in writing of any problems and of any impact on the state's credit rating and the state's ability to borrow funds for state programs.

44539. An applicant for financing for a project involving a waste water treatment plan shall provide evidence satisfactory to the State Water Resources Control Board that the waste water treatment facilities will be operated and maintained by competent personnel. Such evidence shall include, but not be limited to, a description of operating procedures, organizational structure, minimum personnel requirements and training program.

SEC. 7. Article 3 (commencing with Section 44540) of Chapter 1 of Division 27 of the Health and Safety Code is repealed.

SEC. 8. Article 5 (commencing with Section 44540) is added to Chapter 1 of Division 27 of the Health and Safety Code, to read:

Article 5. Bonds and Notes

44540 The authority is authorized to incur indebtedness and to issue securities of any kind or class, and to renew the same, provided that all such indebtedness, howsoever evidenced, shall be payable solely from revenues of the authority.

44541. At such times as the authority desires to issue bonds, as defined in Section 44542, it shall adopt a resolution specifying the total amount of such bonds proposed to be issued.

44542. (a) The authority is authorized from time to time to issue its negotiable bonds, notes, debentures, or other securities (hereinafter collectively called "bonds") for any corporate purpose. Such bonds may be authorized, without limiting the generality of the foregoing, to finance a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties.

In anticipation of the sale of such bonds as authorized by Section 44540, or as may be authorized pursuant to Section 44541, the authority may issue negotiable bond anticipation notes and may renew the same from time to time. Such bond anticipation notes may be paid from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. Notes and agreements relating thereto and bond anticipation notes, hereinafter collectively called notes, and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond, agreement relating thereto, and bond resolution of the authority may contain; except that such note or renewal thereof shall mature at such time not exceeding three years from the date of issue of the original note.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes, or other obligation shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise

pledged, subject only to any agreements with the holders of particular bonds, notes, or other obligations pledging any particular revenues or moneys and subject to any agreements with any participating party. Notwithstanding that such bonds, notes, or other obligations may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds, notes or other obligations for registration

(c) The bonds may be issued as serial bonds or as term bonds, or the authority in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds or notes shall be sold by the State Treasurer within 60 days of receipt of a certified copy of the authority's resolution authorizing the sale of the bonds; provided, that the authority, at its discretion, may adopt a resolution extending such 60-day period. Such sales may be at public or private sale, and for such price or prices and on such terms and conditions, as the authority shall determine after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of such bonds or notes. Pending preparation of the definitive bonds, the State Treasurer may issue interim receipts, certificates, or temporary bonds which shall be exchanged for such definitive bonds. The State Treasurer may sell any bonds, notes, or other evidence of indebtedness at a price below the par value thereof; provided, however, that the discount on any security so sold shall not exceed 6 percent of the par value thereof

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to.

(1) Pledging the full faith and credit of the authority or pledging all or any part of the revenues of any project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, or other moneys of the authority, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist.

(2) The rentals, fees, purchase payments, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(3) The setting aside of reserves or sinking funds, and the regulation and disposition thereof.

(4) Limitations on the right of the authority or its agent to restrict

and regulate the use of the project or projects to be financed out of the proceeds of the bonds or any particular issue of bonds.

(5) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds.

(6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds.

(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(8) Limitations on expenditures for operating, administrative, or other expenses of the authority.

(9) Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

(10) The mortgaging of any project and the site thereof for the purpose of securing the bondholders.

(11) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

(12) Procedures for the selection of projects to be financed with the proceeds of the bonds authorized by the resolution if the bonds are to be sold in advance of the designation of the projects and participating parties to receive such financing.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with bondholders.

44543. In the discretion of the authority, any bonds issued under the provisions of this division may be secured by a trust agreement by and between the authority and a trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of such bonds. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such

provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company doing business under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. Notwithstanding any other provision of law, the State Treasurer shall not be deemed to have a conflict of interest by reason of acting as trustee pursuant to this division.

All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

44544 Bonds issued under the provisions of this division shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the authority, or a pledge of the faith and credit of the state or of any such political subdivision, other than the authority, but shall be payable solely from the funds herein provided therefor All such bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California or any local agency is pledged to the payment of the principal of or interest on this bond."

The issuance of bonds under the provisions of this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section contained shall prevent nor be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

44545. (a) The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds, notes, or other securities of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof.

(b) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds, notes, or other securities may, in the discretion of the authority, be applied to the purchase or retirement

at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the board.

(c) Pending such use, any such escrowed proceeds may be invested and reinvested by the State Treasurer in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested by the State Treasurer in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

(e) All such bonds shall be subject to the provisions of this division in the same manner and to the same extent as other bonds issued pursuant to this division.

44546 If, in the opinion of the State Treasurer, any bonds issued by the authority under the provisions of this division are adequately secured and the revenues and other funds applicable to the payments of the bonds are, or upon the acquisition, construction, or improvement of the project or projects which such bonds finance, will be sufficient to pay the principal of and interest on such bonds, then the State Treasurer shall certify that such bonds are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, savings and loan associations, and investment companies, for executors, administrators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds, and that such bonds are securities which may properly and legally be deposited with, and received by, any state or

municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

44547. No liability shall be incurred by the authority beyond the extent to which moneys have been provided under this division; except that for the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives revenues or proceeds from bonds or notes as provided under this division, the authority may borrow money as needed for such expenses from any funds available to the authority, including the General Fund in the State Treasury. Such borrowed moneys shall be repaid with interest within a reasonable time after the authority receives revenues or proceeds from bonds or notes as provided under this division.

SEC. 8.1. Section 44546 of the Health and Safety Code, as added by Section 8 of this act, is amended to read:

44546. If, in the opinion of the State Treasurer, any bonds issued by the authority under the provisions of this division are adequately secured and the revenues and other funds applicable to the payments of the bonds are, or upon the acquisition, construction, or improvement of the project or projects which such bonds finance, will be sufficient to pay the principal of and interest on such bonds, then the State Treasurer shall certify that such bonds are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, savings and loan associations, and investment companies, for executors, administrators, guardians, conservators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds, and that such bonds are securities which may properly and legally be deposited with, and received by, any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

SEC 9. Article 4 (commencing with Section 44550) of Chapter 1 of Division 27 of the Health and Safety Code is repealed.

SEC. 10. Article 6 (commencing with Section 44550) is added to Chapter 1 of Division 27 of the Health and Safety Code, to read:

Article 6. Construction and Leases of Facilities

44550 The authority may contract with any participating party for the construction of a project by such participating party. All such contracts for the construction of a project by a participating party shall provide that the participating party shall be responsible for the architectural and engineering design and for the construction and completion thereof subject to such standards for architectural and engineering design as may be established, and subject to such

supervision as the authority deems necessary. The authority may agree to pay the cost of such project constructed by any participating party and to advance such costs from time to time in installments or otherwise as required by the contract for the construction thereof. Title to all such projects shall be vested in the authority subject to the terms of any lease thereof to the participating party or the rights of a participating party under any contract for the purchase of such project including the payment of the purchase price under installment sales contracts.

44551. The authority may, as lessor or lessee, enter into leases and agreements with any participating party relating to the acquisition, construction, and installation of any project, including real property, buildings, equipment, and pollution control facilities of any kind or character The terms and conditions of such leases may be as mutually agreed upon. Any such lease may provide the means or methods by which title shall vest in a participating party upon the termination of the lease and shall contain such other terms and conditions as the authority may determine The authority is authorized to fix, revise, charge, and collect rates, rents, fees, and charges for each project Such rates, rents, fees, and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to do all of the following:

(a) Pay the principal of and the interest on outstanding bonds, notes, or other evidences of indebtedness of the authority financing such project as the same shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds, notes, or other evidences of indebtedness. A sufficient amount of the revenues derived from a project may be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and interest on such bonds, notes, or other evidences of indebtedness as the same shall become due, and the redemption price or the purchase price of bonds, notes, or other evidences of indebtedness retired by call or purchase as therein provided Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees, and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof Neither the resolution nor any trust agreement nor any other agreement nor any lease by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other

similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all bonds, notes, or other evidences of indebtedness of the authority financing projects of a particular participating party without distinction or priority of one over another; provided, that the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project or projects and for the bonds financing a particular project or projects and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds, notes, or other evidences of indebtedness of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds, notes, or other evidences of indebtedness.

(c) Pay operating and administrative costs of the authority.

44552 The authority may enter into contracts of sale with any participating party covering any project financed by the authority The purchase price pursuant to such contract of sale shall be sufficient to provide funds for all the purposes provided in Section 44551 and may be paid in installments, together with interest on the unpaid balance, or otherwise, as may be mutually agreed and set forth in such contract of sale. All payments received by the authority under any installment sales or conditional sales contract shall be applied by the authority substantially in the same manner as hereinabove provided in Section 44551 in the case of lease payments or rental charges received by the authority.

44552 5 As an alternative to leasing or selling a project to a participating party, the authority may finance the acquisition, construction, or installation of a project by means of a loan to the participating party. The principal amount of the participating party's obligation as borrower shall be sufficient to provide funds for all the purposes specified in subdivisions (a), (b), and (c) of Section 44551 and may be paid in installments, together with interest on the unpaid balance, or otherwise as may be mutually agreed by the authority and the participating party and set forth in the loan agreement. Loans made pursuant to this section may be secured or unsecured in the discretion of the authority.

The provisions of Section 44550 shall not be applicable to projects constructed with moneys loaned pursuant to this section.

44553 All moneys received pursuant to the provisions of this division, whether as proceeds from the sale of bonds, notes, or other evidences of indebtedness or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this division Any bank or trust company with which such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as the resolution authorizing the bonds of any issue or the trust agreement securing

such bonds may provide.

44554. Any holder of bonds, notes, or other obligations issued under the provisions of this division or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, notes, or other obligations, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this division or by such resolution or trust agreement to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

44555. The exercise of the powers granted by this division shall be in all respects for the benefit of the people of this state, for their health and welfare, and protection of the state's environment. Any bonds, notes, or other obligations issued under the provisions of this division, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by municipalities and other political subdivisions of the state. Provided, however, that the preceding sentence shall not apply with respect to any bonds, notes or other obligations, or the income therefrom, for any period during which such bonds, notes or other obligations are held by (a) any participating party, (b) persons, organizations, trades, or businesses (whether or not incorporated, organized in this state, or affiliated with such participating party) owned or controlled, directly or indirectly, by such participating party, or (c) persons, organizations, trades or businesses (whether or not incorporated, organized in this state, or affiliated with such participating party) which own or control, directly or indirectly, such participating party.

44556. The authority shall not be required to pay any property taxes or assessments upon, or in respect to, a project or any property acquired by or for the authority under the provisions of this division or upon the income therefrom, so long as the authority holds title to such project or the property or facilities comprised in the project. The exemption of the authority from taxation of any project herein provided shall cease forthwith when title to such property is transferred from the authority to any participating party. The provisions of this section shall not exempt any participating party from taxation with respect to any project, or the property or facilities comprised in any project, which may otherwise be applicable to such participating party.

44557. Subject to Section 44562, the existence of the authority may be terminated at any time by the Legislature. Upon dissolution of the authority, the title to all properties owned by it shall vest in

and become the property of the State of California and shall not inure to the benefit of any private party.

SEC. 11. It is the intent of the Legislature, if this bill and Assembly Bill 167 are both chaptered and become effective on or before January 1, 1980, both bills amend or add Section 44546 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 167, that Section 44546 of the Health and Safety Code, as added by Section 8 of this act shall remain operative only until the operative date of Assembly Bill 167, and that on the operative date of Assembly Bill 167 Section 44546 of the Health and Safety Code as added by Section 8 of this act be further amended in the form set forth in Section 8.1 of this act to incorporate the changes in Section 44546 proposed by Assembly Bill 167. Therefore, if this bill and Assembly Bill 167 are both chaptered and become effective on or before January 1, 1980, and if Assembly Bill 167 is chaptered before this bill and amends Section 44546, Section 8.1 of this act shall become operative on the operative date of Assembly Bill 167.

SEC 12 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are.

In order to provide industry with methods of financing the pollution control facilities necessary to meet the pollution control deadlines imposed by the Federal Clean Air Act, and to provide increased environmental protection for the people of this state at the earliest possible time, it is necessary that this act go into immediate effect

---

CHAPTER 840

An act to amend Sections 31400, 31400 1, 31400.2, and 31401 of, to add Article 3 (commencing with Section 30530) to Chapter 6 of Division 20 of, and to repeal Sections 31405.5 and 31406 of, the Public Resources Code, relating to coastal accessways, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 31400 of the Public Resources Code is amended to read.

31400 The Legislature finds and declares that it is the policy of the state that the right of the public to access and enjoyment of the coastal resources should be effectively guaranteed. To achieve such objective, it is the intent of the Legislature that the State Coastal Conservancy have a principal role in the implementation of a system

of public accessways to and along the state's coastline.

SEC 2 Section 31400.1 of the Public Resources Code is amended to read:

31400.1 The conservancy may award grants to any public agency having authority to acquire, develop, and operate public coastal accessways for purposes of the acquisition of interests in, and for initial development of, lands which are suitable for and which will be used for public accessways to and along the coast. No such grants may be awarded to any local agency unless the conservancy has first determined that the subject accessway will serve more than local public needs.

SEC. 3. Section 31400.2 of the Public Resources Code is amended to read:

31400.2. The conservancy may provide up to the total cost of the acquisition of interests in lands and the initial development of public accessways by any public agency, as provided in Section 31400.1. The amount of funding provided by the conservancy shall be determined by the total amount of funding available for coastal public accessway projects, the fiscal resources of the applicant, the urgency of the project relative to other eligible projects, and the application of factors prescribed by the conservancy for the purpose of determining project eligibility and priority in order to more effectively carry out the provisions of the division.

SEC. 4. Section 31401 of the Public Resources Code is amended to read:

31401. The conservancy 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. 5. Section 31405.5 of the Public Resources Code is repealed

SEC. 6. Section 31406 of the Public Resources Code is repealed.

SEC. 7. Article 3 (commencing with Section 30530) is added to Chapter 6 of Division 20 of the Public Resources Code, to read

Article 3. Coastal Public Access Program

30530. It is the intent of the Legislature, consistent with the provisions of Chapter 9 (commencing with Section 31400) of Division 21, that a program to maximize public access to and along the coastline be prepared and implemented in a manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, and local agencies responsible for acquisition, development, and maintenance of public coastal accessways There is a need to coordinate public access programs so as to minimize costly duplication and conflicts and to assure that, to

the extent practicable, different access programs complement one another and are incorporated within an integrated system of public accessways to and along the state's coastline. The Legislature recognizes that different public agencies are currently implementing public access programs and encourages such agencies to strengthen those programs in order to provide yet greater public benefits.

30531. The commission shall be responsible for the preparation of a public coastal access program which includes the elements set forth in this section and which, to the maximum extent practicable, is incorporated into the local coastal programs prepared, approved, and implemented pursuant to this division.

(a) On or before January 1, 1981, the commission shall prepare a coastal access inventory. The coastal access inventory shall be updated on a continuing basis and shall include, but not be limited to, the following information:

(1) A list identifying lands held or operated for the purpose of providing public access to or along the coast. Each listing shall include a brief description of the type of access provided, access constraints, access facility ownership, and resources or uses for which access is provided or suitable.

(2) A list of known offers to dedicate, accepted dedications, and any other legally binding actions taken that provide opportunities for any type of public use of or access to or along the coast. Each listing shall include a brief description of the legal status of the instrument granting or otherwise providing public access, whether public access is physically available, and if not, what action is necessary to be taken to accomplish actual public use.

(3) A map showing the precise location of the listings included pursuant to paragraphs (1) and (2) of this subdivision.

(b) On or before June 1, 1980, the commission shall, in consultation with the Department of Parks and Recreation, the State Coastal Conservancy, and other appropriate public agencies, make recommendations to guide state, local, and to the extent permitted by law federal public agencies in the identification, development, and management of public accessways to and along the coast. The recommendations made pursuant to this section shall be consistent with the public access policies of this division and, with respect to recommendations relating to development of public accessways, consistent with the policy of protecting coastal resources.

(c) On or before January 1, 1981, and from time to time thereafter, the commission, in consultation with the State Coastal Conservancy and other affected public agencies, shall identify the public agency or agencies it deems the most appropriate agency or agencies to accept responsibility for the management of those public coastal accessways listed pursuant to subdivision (a) for which no public agency has accepted such management responsibilities. In identifying the agency or agencies most appropriate to accept public access management responsibilities, the commission shall include its

best estimate of costs for the development, operation, and maintenance of such accessways and shall recommend to the Governor and the Legislature a method of funding such costs. In preparing its recommendations for funding public coastal accessway operation and maintenance costs, the commission shall develop alternative, innovative funding techniques that take into account the appropriateness of local funding for the operation and maintenance of accessways that serve primarily local needs. If the commission identifies a state agency as the appropriate agency to assume management responsibility and such agency does not accept such responsibility, the agency shall, by December 31 of the year in which the commission completes its report, advise the commission of its reasons why it did not or cannot accept such responsibility The State Coastal Conservancy shall take those actions it deems appropriate, including necessary agreements, to negotiate or otherwise accomplish the acceptance of management responsibility by the agency identified by the commission.

30532 The commission may enter into agreements with or issue grants to any public agency for the purpose of assisting the commission in meeting the requirements of this article The commission shall, to the extent available funding permits, enter into agreements with those state agencies that currently operate some form of public coastal access program for the purpose of completing the inventory required by subdivision (a) of Section 30531 The commission shall enter into an agreement with the State Coastal Conservancy to provide the funding necessary for the conservancy to carry out its responsibilities pursuant to this article and Chapter 9 (commencing with Section 31400) of Division 21

30533. The commission, and the State Coastal Conservancy, shall on or before January 1, 1981, and on or before each January 1 thereafter, report to the Governor and the Legislature the progress made in implementing the public coastal access program established by this article It is the intent of the Legislature that the commission, the State Coastal Conservancy, and all other appropriate public agencies proceed with all deliberate speed to implement the provisions of this article prior to the deadlines established in this article

30534. The commission shall, within 10 days after receiving evidence of recordation of any offer to dedicate real property for access to or along the coast, which dedication was required as a condition to the issuance of a coastal development permit, forward a copy of such evidence and a description of such real property to the Department of Parks and Recreation, the State Coastal Conservancy, and the State Lands Commission

SEC 8 The sum of sixty-three thousand dollars ($63,000) is hereby appropriated from the General Fund to the California Coastal Commission for preparation of a coastal access inventory, planning, development of recommendations, and other activities authorized by Article 3 (commencing with Section 30530) of Chapter

6 of Division 20 of the Public Resources Code for expenditure during the 1979–80 fiscal year.

CHAPTER 841

An act relating to school districts, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Notwithstanding the limitations prescribed in Section 15106 of the Education Code, the Walnut Valley Unified School District may issue bonds authorized by the voters of that district in an election held on March 7, 1978

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 2 Notwithstanding any other provision of law, the governing board of the Walnut Valley Unified School District may submit to the voters of that district an advisory ballot measure regarding issuance of the bonds authorized at the March 7, 1978, election. The advisory measure authorized by this section shall not invalidate the March 7, 1978, election or the authority of the governing board of the Walnut Valley Unified School District to issue the bonds authorized at the March 7, 1978, election. Any election held pursuant to this section shall be solely advisory and shall not constitute the required bond election authorizing the issuance of the bonds which occurred at the March 7, 1978, election.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 3. Notwithstanding the limitations prescribed in Section 15102 of the Education Code, the Central Elementary School District may issue bonds authorized by the voters of that district in an election held on March 8, 1977.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 4. Notwithstanding any other provision of law, the governing board of the Central Elementary School District may submit to the voters of that district an advisory ballot measure regarding issuance of the bonds authorized at the March 8, 1977, election. The advisory measure authorized by this section shall not invalidate the March 8, 1977, election or the authority of the governing board of the Central Elementary School District to issue

the bonds authorized at the March 8, 1977, election. Any election held pursuant to this section shall be solely advisory and shall not constitute the required bond election authorizing the issuance of the bonds which occurred at the March 8, 1977, election

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date

SEC. 5. Notwithstanding the limitations prescribed in Section 15102 of the Education Code, the Alta Loma Elementary School District may issue bonds authorized by the voters of that district in an election held on March 7, 1978.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC 6. Notwithstanding any other provision of law, the governing board of the Alta Loma Elementary School District may submit to the voters of that district an advisory ballot measure regarding issuance of the bonds authorized at the March 7, 1978, election The advisory measure authorized by this section shall not invalidate the March 7, 1978, election or the authority of the governing board of the Alta Loma Elementary School District to issue the bonds authorized at the March 7, 1978, election Any election held pursuant to this section shall be solely advisory and shall not constitute the required bond election authorizing the issuance of the bonds which occurred at the March 7, 1978, election.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date

SEC. 7. Due to the unique circumstances concerning the school districts 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 842

An act relating to public employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

The people of the State of California do enact as follows

SECTION 1. The Legislature hereby declares that it is its intention to revise entry limitations applicable to custodial positions in the Department of Corrections by establishing appropriate job-related physical examinations and entry standards in compliance

with the federal Uniform Guidelines on Employee Selection Procedures.

SEC. 2 The sum of fifty thousand dollars ($50,000) is appropriated from the General Fund to the State Personnel Board for the sole purpose of developing and validating job-related physical examinations and entry standards for custodial positions in the Department of Corrections during the 1979–80 fiscal year. The board shall report its findings to the Legislature on or before June 30, 1980.

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

In order for this act to be implemented on the commencement of the 1979–80 fiscal year, it must take effect immediately.

CHAPTER 843

An act to add Section 425.12 to the Code of Civil Procedure, relating to pleadings, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 425.12 is added to the Code of Civil Procedure, to read.

425.12 The Judicial Council shall develop and approve official forms for use in trial courts of this state for any complaint, cross-complaint or answer in any action based upon personal injury, property damage, wrongful death, unlawful detainer, breach of contract or fraud Use of the approved forms shall be optional from July 1, 1981, through December 31, 1982, and mandatory thereafter. The clerk shall accept a pleading referred to in this section on an unapproved form; provided, however, that the pleading on an approved form shall thereafter be required by the court.

In developing the forms required by this act, the Judicial Council shall consult with a representative advisory committee which shall include, but not be limited to, representatives of the plaintiff's bar, the defense bar, the public interest bar, court administrators and the public. The forms shall be drafted in nontechnical language and shall be made available through the office of the clerk of the appropriate trial court.

SEC. 2. There is hereby appropriated from the General Fund the sum of forty-nine thousand six hundred sixty-eight dollars ($49,668) to the Judicial Council for costs incurred in carrying out its duties under this act.

SEC 3 No appropriation is made by this act, nor is any obligation

created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code

---

CHAPTER 844

An act to amend Sections 5070 3, 5070.5, 5071, 5071 7, and 5075.5 of, and to add Sections 5073.1, 5077.2, and 5077.5 to, the Public Resources Code, relating to recreational trails, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 5070.3 of the Public Resources Code is amended to read:

5070.3. Unless the context otherwise requires, the following definitions shall govern construction of this article:

(a) "Committee" means the California Recreational Trails Committee.

(b) "Plan" means the California Recreational Trails System Plan

(c) "System" means the California Recreational Trails System.

(d) "Heritage corridor" means a route consisting of public roads and intended to have guidebooks, signs, and other features to enable self-guided tours of all or part of its length and of all or some of the facilities open to the public along its length, with an emphasis on facilities which are accessible to the physically disabled, the elderly, and others in need of special access and safety features.

SEC. 2. Section 5070.5 of the Public Resources Code is amended to read:

5070.5. The Legislature hereby declares that it is the policy of the state to:

(a) Increase accessibility and enhance the use, enjoyment, and understanding of California's scenic, natural, historic, and cultural resources

(b) Encourage hiking, horseback riding, and bicycling as important contributions to the health and welfare of the state's population.

(c) Provide for the use of recreational trails by physically disabled persons, the elderly, and others in need of graduated trails with special safety features, particularly in conjunction with heritage corridors.

(d) Increase opportunities for recreational boating on designated

waterways

(e) Increase opportunities for use of recreational vehicles in designated areas

(f) Provide for the development and maintenance of a statewide system of recreational and interpretive trails, including heritage corridors.

(g) Increase the recreational and educational use of public roads by developing guides, maps, and other interpretive materials concerning significant historical, agricultural, scenic, and other resource areas.

(h) Encourage the development by cities, counties, districts, and private groups of recreational and interpretive trails, including heritage corridors.

SEC. 3. Section 5071 of the Public Resources Code is amended to read:

5071. The plan shall contain, but shall not be limited to, the following elements·

(a) Pedestrian trails.

(b) Bikeways.

(c) Equestrian trails.

(d) Boating trails.

(e) Trails and areas suitable for use by physically disabled persons, the elderly, and others in need of graduated trails, especially along designated heritage corridors.

(f) Trails and areas for off-highway vehicles

(g) Cross-country skiing trails.

(h) Heritage corridors.

SEC. 4. Section 5071.7 of the Public Resources Code is amended to read:

5071.7. (a) In planning the system, the director shall consult with and seek the assistance of the Department of Transportation so that trail routes designated as part of the system become part of the appropriate elements of the five-year state transportation improvement program adopted pursuant to Section 14529 of the Government Code. The Department of Transportation shall plan and design those trail routes that are in need of construction contiguous to state highways and serve both a transportation and a recreational need.

The Department of Transportation shall install or supervise the installation of signs along heritage corridors consistent with the plan element developed pursuant to this section and Section 5073.1; provided, however, that it shall neither install nor supervise the installation of such signs until it determines that it has available to it adequate volunteers, funds, or a combination thereof, to install or supervise the installation of such signs, or until the Legislature appropriates sufficient funds for such installation or supervision of installation, whichever occurs first

(b) The element of the plan relating to boating trails and other segments of the system which are oriented to waterways shall be

prepared and maintained by the Department of Boating and Waterways pursuant to Article 2.6 (commencing with Section 68) of Chapter 2 of Division 1 of the Harbors and Navigation Code. Such segments shall be integrated with the California Protected Waterways Plan developed pursuant to Chapter 1273 of the Statutes of 1968, and shall be planned so as to be consistent with the preservation of rivers of the California Wild and Scenic Rivers System, as provided in Chapter 1.4 (commencing with Section 5093.50) of this division.

(c) In planning the system, the director shall consult with and seek the assistance of the Department of Rehabilitation to assure that adequate provision is made for the use of recreational trails, including heritage corridors by physically disabled persons.

SEC. 5. Section 5073.1 is added to the Public Resources Code, to read:

5073.1. The director shall transmit the heritage corridors element of the plan to the Legislature not later than one year after the date on which he determines that the department has available to it adequate volunteers, funds, or a combination thereof, to prepare the element, or not later than one year after the effective date of an appropriation of funds by the Legislature sufficient to prepare the element, whichever occurs first. Coordinating accessibility to and understanding of outdoor resources shall be considered to be of high priority to encourage public use of trails with emphasis on the physically disabled, elderly, and disadvantaged populations.

SEC. 6. Section 5075.5 of the Public Resources Code is amended to read:

5075.5. The director shall prepare a guidebook or guidebooks, including trail maps, describing the system. The guidebook, or guidebooks, shall include information regarding the responsibility of trail users and shall specify rules and regulations for trail use, including measures designed to prevent trespass and damage to public and private property. The director may prepare a combined heritage corridors and accessible trails guidebook. However, the director shall prepare no guidebook or guidebooks of heritage corridors until such time as he determines that the department has available to it adequate volunteers, funds, or a combination thereof, to prepare such guidebook or guidebooks, or until such time as the Legislature appropriates funds sufficient to prepare the guidebook or guidebooks, whichever occurs first.

SEC. 7. Section 5077.2 is added to the Public Resources Code, to read:

5077.2. In addition to utilizing criteria and standards for the design, interpretation, and implementation of heritage corridor routes and complementary facilities, as provided in subdivisions (b) and (c) of Section 5071.3 and paragraphs (1), (2), (3), and (4) of subdivision (a) of Section 5075.3, the director shall include in the plan required by Section 5070.7 the following routes which shall be given priority for designation as heritage corridors:

(a) Routes which connect urban areas with the cross-section of landscape provided in parks and recreation and outdoor resource areas in California.

(b) Routes incorporating existing and planned facilities for ready accessibility for physically disabled persons utilizing coordinated accessibility to several areas and experiences such as trails, water, visitor centers, campsites, parking, and rest rooms.

(c) Existing and planned scenic highways.

(d) Looping routes radiating out of centers of population to allow optimum use.

(e) Routes nominated by local governmental jurisdictions and local volunteer groups.

(f) Routes providing access to the maximum number of recreational trails and other recreational facilities.

(g) Routes intended to direct the public away from areas where trespass or damage to public or private property or natural resources is likely.

SEC. 8. Section 5077 5 is added to the Public Resources Code, to read:

5077.5. (a) Because of California's unique potential to stimulate an east-to-west, nationwide heritage corridor, because of the need to test the degree of local government and private citizen voluntary action which would be essential to an effective and low-cost heritage corridors program, and because of the prior existence of a commonly known heritage corridor route, one heritage corridor is hereby designated the Great Overland Road Heritage Corridor, to consist of the two following strands:

(1) Pioneer and Goldrush Strand from San Francisco Bay through the Sacramento Delta to north Lake Tahoe via Donner Pass, primarily located along the roads known as the Lincoln Highway

(2) Farms and Forests Strand from San Francisco Bay through Marin, Sonoma, Napa, Mendocino, Lake, Colusa, Sutter, Yuba, and Nevada Counties to Donner Pass, primarily located on Highways 128 and 20.

(b) The director shall complete a map and interpretive guide for the Great Overland Road Heritage Corridor not later than one year after the date on which he determines that the department has available to it adequate volunteers, funds, or a combination thereof, to complete the map and interpretive guide, or not later than one year after the effective date of an appropriation of funds by the Legislature sufficient to complete the map and interpretive guide, whichever occurs first.

SEC. 9. There is hereby appropriated from the California Environmental Protection Program Fund, for expenditure without regard to fiscal years, the sum of twenty thousand dollars ($20,000) to the department for the development and printing of the map and interpretive guide for the Great Overland Road Heritage Corridor and other costs of administering this article. Maps shall not be free; however, a discount price may be set for educational and physically

disabled groups. The director may utilize up to ten thousand dollars ($10,000) of the funds for one or more matching grants to educational and volunteer groups interested in assisting in development of such guides or maps.

CHAPTER 845

An act making an appropriation for the state park system.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. The sum of thirty-five thousand dollars ($35,000) is hereby appropriated from the General Fund to the Department of Parks and Recreation for a study of the feasibility of acquiring the Verdugo Mountains and San Rafael Hills for the state park system, to recommend the most desirable boundaries of such a park, and to evaluate the acquisition and development of corridors providing access to and between the various local, state, and federal parklands in the vicinity of the Verdugo Mountains and San Rafael Hills.

CHAPTER 846

An act relating to tide and submerged lands in the City of Oceanside, and in this connection repealing Chapter 217 of the Statutes of 1963, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Chapter 217 of the Statutes of 1963 is repealed.

SEC. 2. There is hereby granted to the City of Oceanside, hereinafter referred to as "the trustee" all of the right, title, and interest of the State of California, held by the state by virtue of its sovereignty in and to all tide and submerged lands, whether filled or unfilled, situated in the County of San Diego and described in Section 14. Such lands shall be held by the trustee and its successors, in trust for the benefit of all the people of the state for purposes of commerce, navigation and fisheries, and for other public purposes, including, but not limited to, preservation of the lands in their natural state for scientific study, open space, or wildlife habitat, and recreational uses as more particularly provided in this act. This grant

is subject to the following express conditions:

(a) That the lands shall be used by the trustee and its successors, for purposes in which there is a general statewide interest. The use of the lands shall be in conformity with a general use proposal adopted by the trustee and reviewed and approved by the State Lands Commission. Changes or amendments to the general use proposal shall be reviewed and approved by the commission as provided under Section 4.

(b) That the trustee or its successors, shall not at any time grant, convey, give, or alienate the lands, or any part thereof, to any individual firm or corporation for any purposes whatsoever; except that the trustee or its successors may grant franchises thereon for limited periods not exceeding 66 years for wharves and other public uses and purposes, 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; and may collect and retain rents and other revenues from such leases, franchises, and privileges under rules and regulations adopted in accordance with the provisions of Section 6.

Nothing contained in this subdivision shall be deemed to affect the validity or terms of any franchise granted by the trustee under Division 3 (commencing with Section 6001) of the Public Utilities Code, and any such franchise shall be effective with respect to the affected lands when title thereto passes to the trustee under this act.

(c) That in the management, conduct, operation and control of the lands or any improvement, betterments, or structures thereon, the trustee or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(d) That the state shall have the right to use without charge any transportation, landing, or storage improvements, betterments, or structures, other than those improvements or structures owned or operated by a public utility, constructed upon the lands for any vessel or other watercraft or railroad owned or operated by the state.

(e) That there is reserved to the people of the State of California the absolute right to fish in the waters over the lands, with the right of convenient access to such waters over the lands for such purpose.

(f) That there is excepted and reserved to the state all remains of archaeological and historical significance and all deposits of minerals, including, but not limited to, all substances specified in Section 6407 of the Public Resources Code, in the lands, and the right to prospect for, mine, and remove such deposits from the lands.

(g) That the trustee shall not authorize a capital outlay project, lease, or agreement, for port facilities such as marine terminals, pipelines, or other related energy facilities on state tide and submerged lands which have been granted in trust without first requesting and receiving the approval, in writing, of the State Lands Commission. Prior to approving any such capital outlay projects, leases, or agreements, the commission shall consult with other governmental agencies and shall determine that such project is in

the best interest of the people of the state and consistent with provisions of law, and that the allocation between the state and the trustee of any revenues generated as a result of such project, lease, or agreement, shall be in accordance with provisions for allocation of excess revenue contained in Section 11.

SEC. 3. On or before September 30 of the succeeding fifth year commencing on September 30, 1984, the trustee shall submit a report of its utilization of granted tidelands for each immediately preceding five-year period ending with June 30 of the calendar year in which the report is required to be submitted.

The report required by this section shall include all of the following:

(a) A general description of the uses to which the granted tidelands have been placed during the period covered by the report.

(b) A list of the owners and holders of leases, permits, and franchises granted or issued by the trustee, which list shall specify, as to each such owner or holder:

(1) The use to which the granted tidelands have been placed by the owner or holder.

(2) The consideration provided for in each such lease, permit, or franchise and the consideration actually received by the trustee for the lease, permit, or franchise granted or issued.

(3) An enumeration of the restrictions which the trustee has placed on the use of the granted tidelands and each area thereof for the period covered by the report.

SEC. 4. (a) The trustee shall submit to the State Lands Commission by January 1, 1982, a general use proposal indicating details of intended development, preservation, or other use of the granted tide and submerged lands, and covering a period of not less than five years.

(b) The general use proposal may consist of any plan, program, or other document which includes all of the following:

(1) A general description of the type of uses planned or proposed for the granted lands. The location of such land uses shall be shown on a map or aerial photograph.

(2) The projected statewide benefit to be derived from the planned or proposed uses of the tidelands, including, but not limited to, the financial benefit, the benefit to commerce, navigation and fisheries, and the recreational, educational, or industrial benefit.

(3) The proposed method of financing the planned or proposed uses of the requested tidelands, including estimated capital costs, annual operating costs, and anticipated annual revenues.

(4) An estimated timetable for implementation of the general use proposal or any phase thereof.

(5) A description of how the trustee proposes to protect and preserve natural and man-made resources in connection with the use of granted lands.

(c) The trustee shall submit to the commission all changes and amendments to the general use proposal.

(d) The commission shall review with reasonable promptness the general use proposal submitted by the trustee, and any changes or amendments, to determine that they are in accordance with the public trust obligation and the requirements of this act. On the basis of such review, the commission shall furnish the trustee with its formal recommendations.

SEC. 5. The trustee shall demonstrate good faith in carrying out the provisions of its general use proposal and amending it when necessary in accordance with Section 4. If the State Lands Commission determines that the trustee has substantially failed to improve, restore, preserve, or maintain the lands within its grant, as required by the general use proposal, or demonstrates unreasonable delay in adopting the proposal, all right, title, and interest of the trustee in and to all lands held by virtue of its granting shall cease and all right, title, and interest in the lands shall revert to the state. All improvements, restoration, preservation, or maintenance of the granted lands shall be effected in accordance with the general use proposal.

SEC. 6. (a) The governing body of the trustee shall, by July 1, 1980, submit to the State Lands Commission for its approval, a procedure, rules, and regulations to govern the issuance, renewal, or renegotiation of any lease of granted tide and submerged lands, or any development thereon. Such rules and regulations shall specify lease rates, the bases upon which such rates are established, lease terms and conditions, provisions for renegotiation of rates, terms, and assignments, and such other information as may be required by the commission

(b) All leases, franchises, or agreements proposed or entered into by any trustee after the effective date of this section shall be consistent with the provisions of the general use proposal submitted by the trustee.

(c) Upon request, the trustee shall submit to the commission a copy of all leases, franchises, and agreements entered into, renewed, or renegotiated.

SEC. 7. The trustee shall, with approval from the State Lands Commission, establish accounting procedures whereby an accurate record of all revenues derived from the use of granted lands and of all expenditures of any such revenues shall be maintained. The purpose of this requirement is to provide for the segregation of funds derived from the use of the granted lands in order to ensure that they are only expended to enhance such lands in accordance with the trust uses and purposes upon which the granted lands are held.

In addition to any other expenditure which may be permitted by this act, the trustee shall be permitted to expend revenues derived from granted lands to acquire or improve lands immediately adjacent to the lands granted by this act for the purposes authorized in this act. Any such acquisition or improvement shall become a part

of the trust created by this act and shall become subject to the provisions of the public trust for commerce, navigation, and fishing, from the time of the expenditure forward.

SEC. 8. Property acquired with such revenues shall be considered an asset of the trust and subject to the terms and conditions of this act.

SEC. 9. Notwithstanding any other provision of law, the trustee shall, on or before October 1 of each year, cause to be made and filed with the State Lands Commission a detailed statement of all revenue and expenditures thereof from the administration of the lands, including obligations incurred but not yet paid. The statement shall be in a form specified by the commission and shall cover the fiscal year preceding its submission.

SEC. 10. As to the expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars ($250,000) in the aggregate, the trustee shall file with the State Lands Commission a detailed description of the capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith. Within 90 days after the time of such filing, the commission shall determine whether such capital improvement is in the statewide interest and is consistent with the conditions of this act. The commission may request the opinion of the Attorney General on the matter. A copy of any opinion so requested shall be delivered to the trustee with the notice of its determination. In the event that the commission notifies the trustee that the capital improvement is not authorized, the trustee shall not disburse any revenue for or in connection with the capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The trustee is authorized to bring suit against the state for the purpose of securing such an order or judgment, which suit shall have priority over all other civil matters. Service shall be made upon the executive officer of the commission and the Attorney General, and the Attorney General shall defend the state in the suit. If judgment is given against the state, no costs may be recovered.

SEC. 11. On June 30, 1982, and at the end of every third fiscal year thereafter, that portion of the trustee's tideland trust revenues in excess of two hundred fifty thousand dollars ($250,000) remaining after current and accrued operating costs and expenditures directly related to the operation or maintenance of tideland trust activities, shall be deemed excess revenues; except that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands made for purposes authorized by this act may be considered as expenditures for the purpose of determining excess revenues.

The excess revenues, as determined pursuant to this section, shall

be allocated as follows: 85 percent shall be transmitted to the State Treasurer for deposit in the General Fund in the State Treasury; and 15 percent to the trustee for expenditures consistent with the provisions of this act.

SEC. 12. The State Lands Commission shall, from time to time, institute a formal inquiry to determine if the terms and conditions of this act, and amendments thereto, have been complied with, and if all other applicable provisions of law concerning these specific granted lands are being complied with in good faith. In this regard, and in addition to the other powers and duties specifically delegated to it, the commission may examine any records and materials relating to the administration of the granted tidelands it deems necessary in connection therewith, including, but not limited to, financial records of the trustee.

SEC. 13. (a) The trustee may establish the ordinary high-water mark or the ordinary low-water mark of any of the lands hereby granted, by agreement, arbitration, or action to quiet title, whenever the trustee deems it expedient. Any establishment of an ordinary high-water mark or ordinary low-water mark by arbitration or agreement shall not be effective until approved by the State Lands Commission.

(b) Whenever it shall appear to the trustee to be expedient for the settlement of boundary and title disputes, and to be in the best interests of the state for the purposes specified in Section 2, and that no substantial interference with the trust uses and purposes would ensue, the trustee may exchange lands of equal or greater value with any state agency, political subdivision, person, or the United States or any agency thereof. In any such exchange, all right, title, and interest in and to all deposits of minerals, including oil and gas and geothermal resources, in the lands to be received by the trustee, and the right to prospect for, mine, and remove such deposits from such lands or to authorize persons to prospect for, mine, and remove such deposits, shall be transferred to the state. Any land so acquired shall have the same status as to administration, control, and disposition as the lands for which it was exchanged. No such exchange shall be effective unless and until the State Lands Commission (1) makes a finding that the lands to be acquired by the trustee and the mineral rights to be transferred to the state are of equal or greater value than the lands and mineral rights for which they are to be exchanged and (2) approves the exchange.

(c) The lands exchanged may be improved, filled, and reclaimed by the grantee, subject to all necessary approvals by local, regional, state, or federal entities. Upon the adoption of a resolution by the State Lands Commission finding and declaring that such lands have been improved, filled, and reclaimed, and have thereby been excluded from the public channels and are no longer available, useful, or susceptible of being used for navigation and fishing and for other trust uses and purposes, and are no longer in fact tidelands or submerged lands, such lands shall thereupon be free from the public

trust upon which they are held.

SEC. 14 The land granted in Section 2 is that parcel of sovereign tide and submerged land in the Pacific Ocean, in the Gulf of Santa Catalina, vicinity of the City of Oceanside, San Diego County, State of California, within the area more particularly described as follows:

COMMENCING at National Geodetic Survey monument "Side-1933" having California Zone VI Coordinates X=1,650,194.05, Y=380,758 02 as shown on the map of the State Grant to the City of Oceanside dated October 22, 1966, and recorded as Miscellaneous Map No. 493, Official Records San Diego County; thence N 61° 03′ 48″ W 1199.71 feet to Station 1 as shown on such map, such point being the TRUE POINT OF BEGINNING; thence southeasterly to Station 22 as shown on such map; thence the following seven courses:

1 S 56° 52′ 16″ W, 1,866.45 feet;
2 N 35° 29′ 20″ W, 5,448 12 feet;
3 S 49° 54′ 49″ W, 7,009.52 feet;
4 N 40° 05′ 11″ W, 20 00 feet;
5 N 49° 54′ 49″ E, 7,011.13 feet;
6 N 35° 29′ 20″ W, 14,463.64 feet,
7 N 56° 22′ 16″ E, 1,865.85 feet

to the true point of beginning; together with any sovereign lands lying landward of the line between Stations 1 through 22 shown on the above mentioned map, including the sovereign interests of the State of California in lagoons, estuaries, and rivers within the city limits of the City of Oceanside.

SEC. 15 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to carry out the program specified in this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

SEC 16 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are

This act is necessary to ensure that the resources at the mouth of the San Luis Rey River are duly protected In order to provide such protection at the earliest possible time it is necessary that this act go into immediate effect.

CHAPTER 847

An act to add Chapter 7.2 (commencing with Section 1725) to Division 2 of the Fish and Game Code, relating to fish.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Chapter 7.2 (commencing with Section 1725) is added to Division 2 of the Fish and Game Code, to read:

CHAPTER 7.2. TROUT MANAGEMENT

1725. This act shall be known as the Trout and Steelhead Conservation and Management Planning Act of 1979.

1726. The Legislature hereby finds and declares that it is the policy of the state to:

(a) Establish and maintain wild trout stocks in suitable waters of the state which are readily accessible to the general public as well as in such waters in remote areas.

(b) Establish angling regulations designed to maintain the wild trout fishery in such waters by natural reproduction.

1726.4. It is the intent of the Legislature that the department, in administering its existing wild trout program, shall conduct a biological and physical inventory of all California trout streams and lakes to determine the most suitable angling regulations for each stream or lake. A determination shall be made for each stream or lake regarding whether it should be managed as a wild trout fishery, or whether its management should involve the planting of trout. In making such inventory, priority shall be given to those streams and lakes where public use is heaviest, which have the highest biological potential for producing sizeable wild trout, which are inhabited by rare species, or where the quality of the fishery is threatened or endangered. Biological and physical inventories prepared for each stream, stream system, or lake shall include an assessment of the resource status, threats to the continued well-being of the fishery resource, the potential for fishery resource development, and recommendations, including necessary changes in the allowed take of trout, for the development of each stream or lake to its full capacity as a fishery.

This section does not furnish any public entity or private party with any new or additional authority to affect the management of, or access to, any private land without the written consent of the owner Privately owned lakes and ponds not open to the use of the general public shall be subject to the provisions of this section only with the written consent of the owner. This chapter shall not be construed as authorizing or requiring special treatment of adjacent

land areas or requiring land use restrictions. It is the intent of the Legislature that this chapter shall not diminish the existing authority of the department, nor shall it interfere with the department's existing fisheries management planning process.

1726.5 The Legislature further finds and declares that activities and programs mandated by this chapter are a continuation and perpetuation of the department's existing wild trout program and other programs, and as such they shall be funded from existing budgetary resources.

1727 In order to provide for a diversity of available angling experiences throughout the state, it is the intent of the Legislature that the commission maintain the existing wild trout program, and as part of such program develop catch and release fisheries in the more than 20,000 miles of trout streams and approximately 5,000 lakes containing trout in California. As part of this program, beginning in 1980:

(a) The department shall establish an ongoing program to determine the viability of various forms of catch and release regulations for trout streams and lakes. A zero-limit catch and release fishery means that all trout must be released by the angler A one-trout-limit catch and release fishery means that only one trout may be kept by the angler, and a two-trout-limit catch and release fishery means that only two trout may be kept by the angler. In conjunction with determining the best management tools for the one- or two-trout-limit fisheries, the department shall consider imposing minimum and maximum size limits.

(b) In administering its existing wild trout program, the department shall each year prepare a list of no less than 25 miles of stream or stream segments and at least one lake that it deems suitable for consideration as catch and release trout fisheries. This list shall be submitted to the commission for its consideration at the regular October commission meeting. Such recommendations by the department shall give highest priority to designating trout waters as zero-limit fisheries, even if on a temporary basis The department shall also consider making proposals for zero-limit trout fisheries during seasons otherwise closed by the commission.

(c) The commission may remove any stream or lake which it has designated as a catch and release fishery from the program at any time If any such waters are removed from the program, another stream or lake of a comparable size may be added to the program.

(d) The commission shall in January of each year submit a report to the Legislature regarding progress in implementing this chapter. In such report, the commission shall state its reasons why any stream or lake listed by the department as suitable for consideration as a catch and release fishery was or was not included in the program. The commission shall also state its reasons for removing and replacing any waters within the program.

(e) The Legislature shall review the progress of this program in 1986

1728. For purposes of this chapter, "trout" includes steelhead trout.

CHAPTER 848

An act to amend Section 33 of Chapter 292 of the Statutes of 1978, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 33 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 33. Notwithstanding any other provision of law, for the period from July 1, 1978, to June 30, 1979, the state shall pay the following:

(a) Each county's share toward the cost of payments provided pursuant to the State Supplementary Program under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Section 12400 of that code.

(b) Each county's share toward the cost of health care provided pursuant to the Medi-Cal Program under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Sections 14150, 14150.3, and 14150.5 of that code.

(c) Each county's share of payments provided pursuant to the Aid to Families with Dependent Children Program under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Section 11450(a) of that code.

(d) Ninety-five percent of the nonfederal share of payments for foster care pursuant to Sections 11450(b) and 11403 of the Welfare and Institutions Code, provided that no county shall be reimbursed for any rate increases negotiated with any boarding home or institution subsequent to June 1, 1978, unless so authorized by the Director of the State Department of Social Services upon the director's determination that such rate increases are necessary and fiscally prudent.

(e) Each county's share of costs for the administration of the Aid to Families with Dependent Children Program, as specified in Section 15204 2.

(f) Each county's share of the cost of administration of the federal Food Stamp Program under Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code,

as specified in Section 18906 of that code.

Notwithstanding any other provision of law, no obligation for payment may be imposed on a county for the 1978–79 fiscal year under the provisions of Section 12400, 14150, 14150.3, or 14150.5 of the Welfare and Institutions Code. The addition of this paragraph made by the 1979–80 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 2. The sum of one million nine hundred twenty-six thousand dollars ($1,926,000) is hereby appropriated from the General Fund to the State Department of Social Services for the individual and family grant program pursuant to Section 8654 of the Government Code for the storm of 1978, the fire of 1978, and the Laguna landslide of 1978, which were declared major disasters by the President of the United States pursuant to Section 408 of Public Law 93-288.

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

In order to provide funding for grants made to victims of major disasters in this state as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 849

An act to amend Section 11487 of the Health and Safety Code, and to amend Sections 1463.14 and 13202 of, and to add Article 7 (commencing with Section 13320) to Chapter 2 of Title 3 of Part 4 of, the Penal Code, relating to crimes

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 11487 of the Health and Safety Code is amended to read:

11487. Each city, county, or state agency coming into possession of a controlled substance pursuant to the provisions of this chapter shall report semiannually to the Attorney General the amounts, kind, and disposition of controlled substances so seized

The reports provided for by this section shall be in a form and contain such information as determined necessary by the Attorney General.

The Attorney General shall issue an annual report to the Governor and Legislature correlating and summarizing the reports provided for by this section.

This section shall remain in effect only until January 1, 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. 2. Section 1463 14 of the Penal Code is amended 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, 1981, and as of such date is repealed.

SEC 3. Section 13202 of the Penal Code is amended to read:

13202 Every public agency or bona fide research body immediately concerned with the prevention or control of crime, the quality of criminal justice, or the custody or correction of offenders may be provided with such criminal offender record information as is required for the performance of its duties, provided that any material identifying individuals is not transferred, revealed, or used for other than research or statistical activities and reports or publications derived therefrom do not identify specific individuals, and provided that such agency or body pays the cost of the processing of such data as determined by the Attorney General.

SEC 4. Article 7 (commencing with Section 13320) is added to Chapter 2 of Title 3 of Part 4 of the Penal Code, to read.

Article 7. Examination of Local Records

13320 (a) As used in this article, "record" with respect to any person means the local summary criminal history information as defined in subdivision (a) of Section 13300, maintained under such person's name by the local criminal justice agency

(b) As used in this article, "agency" means any agency or consortium of agencies

(c) It is the function and intent of this article to afford persons concerning whom a record is maintained in the files of the local criminal justice agency a reasonable opportunity to examine the record compiled from such files, and to refute any erroneous or

inaccurate information contained therein.

13321 Any person desiring to examine a record relating to himself shall make application to the agency maintaining the record in the form prescribed by that agency which may require the submission of fingerprints.

13322 The agency may require the application be accompanied by a fee not to exceed twenty-five dollars ($25) that the agency determines is equal to the cost of processing the application and making a record available for examination.

13323. When an application is received by the agency, the agency shall upon verification of the applicant's identity determine whether a record pertaining to the applicant is maintained. If such record is maintained, the agency shall at its discretion either inform the applicant by mail of the existence of the record and specify a time when the record may be examined at a suitable facility of the agency or shall mail the subject a copy of the record.

13324 (a) If the applicant desires to question the accuracy or completeness of any material matter contained in the record, he may submit a written request to the agency in the form established by it. The request shall include a statement of the alleged inaccuracy or incompleteness in the record, its materiality, and shall specify any proof or corroboration available. Upon receipt of such request, the agency shall, within 60 days of receipt of such written request for clarification, review its information and forward to the applicant the results of such review.

(b) If the agency concurs in the allegations of inaccuracy or incompleteness in the record and finds that the error is material, it shall correct its record, and the agency shall inform the applicant of its correction of any material error in the record under this subdivision within 60 days. The agency shall notify all criminal justice agencies to which it has disseminated the incorrect record from an automated system in the past two years of the correction of the record

The agency shall furnish the applicant with a list of all the noncriminal justice agencies to which the incorrect record has been disseminated from an automated system in the past two years unless it interferes with the conduct of an authorized investigation.

(c) If the agency denies the allegations of inaccuracy or incompleteness in the record, the matter shall at the option of the applicant be referred for administrative adjudication in accordance with the rules of the local governing body.

13325 The agency shall adopt all regulations necessary to carry out the provisions of this article.

13326. No person shall require an employee or prospective employee to obtain a copy of a record or notification that a record exists as provided in Section 13323. A violation of this section is a misdemeanor

SEC 5 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to

these sections because self-financing authority is provided in this act to cover 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

CHAPTER 850

An act to add Section 68511.3 to the Government Code, relating to courts.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 68511.3 is added to the Government Code, to read:

68511.3. Not later than January 1, 1981, the Judicial Council shall formulate and adopt uniform forms and rules of court for litigants proceeding in forma pauperis. Such rules shall provide: (1) for standard procedures for considering and determining applications for permission to proceed in forma pauperis, including, in the event of a denial of such permission, a written statement detailing the reasons for denial and an evidentiary hearing where there is a substantial evidentiary conflict; (2) for standard procedures to toll relevant time limitations when a pleading or other paper accompanied by such an application is timely lodged with the court and delay is caused due to the processing of the application to proceed in forma pauperis; (3) for proceeding in forma pauperis at every stage of the proceedings at both the appellate and trial levels of the court system; (4) for the confidentiality of the financial information provided to the court by such litigants; and (5) that permission to proceed in forma pauperis be granted (a) to litigants who declare under penalty of perjury that they are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Sections 12200-12205.2 of the Welfare and Institutions Code), the Aid to Families with Dependent Children (AFDC) program (42 United States Code 601-644), the Food Stamp program (7 United States Code 2011-2027) or Section 17000 of the Welfare and Institutions Code and (b) to litigants who declare under penalty of perjury that their monthly income is 125 percent or less of the current monthly poverty threshold annually established by the Community Services Administration pursuant to Section 625 of the Economic Opportunity Act of 1964, as amended. Such rules shall further

provide that the court shall grant permission to proceed in forma pauperis in any other instance in which, in its discretion, such permission is appropriate because the litigant is unable to proceed without using money which is necessary for the use of the litigant or the litigant's family to provide for the common necessaries of life.

CHAPTER 851

An act to amend Section 1538 of the Health and Safety Code, and to add Chapter 8 (commencing with Section 9700) to Division 8.5 of the Welfare and Institutions Code, relating to access to health facilities.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 1538 of the Health and Safety Code is amended to read:

1538. (a) Any person may request an inspection of any community care facility in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter such facility pursuant to Section 9701 of the Welfare and Institutions Code. Any such notice shall be in writing, specifying to a reasonable extent the details of the alleged violation, and shall be signed by the complainant.

(b) The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility, the state department shall

review the complaint. The complainant shall be notified promptly of the state department's proposed course of action.

SEC. 2 Chapter 8 (commencing with Section 9700) is added to Division 8 5 of the Welfare and Institutions Code, to read:

CHAPTER 8. LONG-TERM HEALTH CARE FACILITY ACCESS

9700. The Legislature recognizes that the Department of Aging, pursuant to a grant from the federal government, has established a long-term care ombudsman program.

The Legislature finds that the Department of Aging through its long-term care ombudsman program has arranged with approved organizations for the training of citizen volunteers to investigate and resolve complaints made by or on behalf of elderly individuals, who are patients or residents of long-term care facilities or residential facilities, which may affect the health, safety, welfare, and rights of such patients or residents, and that the ombudsman program now includes 30 regional ombudsmen coordinators throughout the state with 650 trained volunteers operating in more than 600 long-term care facilities or residential facilities

The Legislature declares that it is the public policy of this state to encourage community contact and involvement with elderly patients or residents of long-term care facilities or residential facilities through the use of volunteers and volunteer programs and nothing in this chapter shall be construed as limiting or restricting the continuation of relationships established between ombudsmen volunteers, the elderly patients or residents of long-term care facilities or residential facilities, and the operators of such facilities.

The Legislature further finds that in order for the State of California to be eligible for grants from its allotment under Title III of the "Comprehensive Older Americans Act Amendments of 1978," for any fiscal year, it must submit to the Commissioner on Aging a state plan for a three-year period which, among other requirements is to provide assurances that the Department of Aging will establish procedures for appropriate access by the ombudsman to long-term care facilities and residential facilities, and that in order to meet this mandate, it is necessary that legislation be enacted to ensure that the Ombudsman of the Department of Aging and such person's regional ombudsmen have a legal right of entry in and to such facilities.

9701 The long-term care Ombudsman of the Department of Aging, the ombudsman coordinators of such department, and the persons acting in the capacity of regional ombudsmen on behalf of approved organizations shall have the right of entry to long-term care facilities and residential facilities for the purpose of hearing, investigating, and resolving complaints of, and rendering advice to, elderly individuals who are patients or residents of such facilities at any time deemed necessary and reasonable by the Ombudsman of the Department of Aging to effectively carry out such duties

9702 For purposes of this chapter, an "approved organization"

means any public agency or other appropriate organization which has been designated by the Department of Aging to conduct training of citizen volunteers to hear, investigate, and resolve complaints of elderly individuals who are patients or residents of long-term care facilities or residential facilities relating to matters which may affect the health, safety, welfare, and rights of such patients or residents.

9703. (a) As used in this chapter, the term "long-term care facility" means a "long-term health care facility," as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(b) As used in this chapter, the term "residential facility" means a community care facility, as defined in paragraphs (1) and (2) of subdivision (a) of Section 1502 of the Health and Safety Code.

9704. Nothing in this chapter shall be construed to restrict, limit, or increase any existing right of any organizations or individuals not described in Sections 9701 and 9702 to enter, or provide assistance to patients or residents of, long-term care facilities or residential facilities.

9705. Nothing in this chapter restricts any right or privilege of any resident of a long-term care facility to receive visitors of his or her choice.

9706. Upon receipt of a complaint from, or pertaining to, a patient or resident of a long-term care facility or a residential facility, which may indicate a violation of licensing standards or which may impair the health, safety, welfare, or rights of such patients or residents, as determined by the Department of Aging, the Department of Aging shall notify immediately the appropriate licensing agency of such complaint.

CHAPTER 852

An act relating to the organization, boundaries, acts, proceedings, and bonds of public bodies, as herein defined, 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 21, 1979 Filed with Secretary of State September 22, 1979]

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 Notwithstanding the provisions of subdivision (b) of Section 99 of the Revenue and Taxation Code, any formation, organization, or incorporation of any public body, or any annexation thereto, or exclusion therefrom, or other change of boundaries

thereof, or the consolidation, merger or dissolution of any public body, which became effective between January 1, 1978 and July 24, 1979, is hereby confirmed, validated and declared legally effective.

For purposes of determining the amount of property tax to be allocated in fiscal year 1979–80 and thereafter for the public bodies described in this section, the provisions of subdivisions (d) and (e) of Section 99 of the Revenue and Taxation Code shall apply

SEC. 11. This act may be cited as the Second Validating Act of 1979.

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

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, and to specifically prescribe the method by which the amount of property tax to be allocated to certain of such public bodies is to be determined it is necessary that this act take immediate effect

---

CHAPTER 853

An act to amend Section 14123 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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 The director may also, upon consideration of the surrounding circumstances, suspend a provider of service for the conviction of any crime involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section The director may

order the suspension of a provider of service when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence. 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.

CHAPTER 854

An act to add Section 65040 8 to the Government Code, relating to land use planning

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 65040.8 is added to the Government Code, to read:

65040.8. The Office of Planning and Research shall develop a housing cost manual which may be used by local agencies in assessing the impact on housing costs of alternative land use proposals and land use regulatory programs of local agencies and as an aid in evaluating private land use proposals.

The manual shall present economic and technical criteria for local agencies to use in developing or acting on, or both, general plan elements, zoning regulations, subdivision map regulations, alternative land use proposals and policies, and private land use proposals. The manual shall include a step-by-step program which local agencies may follow, including, but not limited to, sources of data, methods of summarizing and using the data, formulas for evaluating the impacts on housing costs of land use and land use regulatory decisions, and a guideline on how to prepare a single statement of results.

The Office of Planning and Research shall complete the housing cost manual required by this section by January 1, 1981.

CHAPTER 855

An act to amend Section 4903.1 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 4903 1 of the Labor Code is amended to read:

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

reimbursement for benefits paid or services provided under such plans as follows·

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

(b) When the referee issues an award finding that an injury or illness arises out of and in the course of employment, and makes an award for reimbursement for self-procured medical costs, the appeals board shall allow a lien, to the extent of benefits paid or services provided, for the effects of the industrial injury or illness, by a health care service plan, a group disability policy, a self-insured employee welfare benefit plan, or a hospital service contract.

(c) When the referee issues an award finding that an injury or illness arises out of and in the course of employment and makes an award for temporary disability indemnity, the appeals board shall allow a lien as living expense under Section 4903, for benefits paid by a group disability policy providing loss of time benefits. Such lien shall be allowed to the extent that benefits have been paid for the same day or days for which temporary disability indemnity is awarded and shall not exceed the award for temporary disability indemnity No lien shall be allowed hereunder unless the group disability policy provides for reduction, exclusion, or coordination of loss of time benefits on account of workers' compensation benefits.

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

CHAPTER 856

An act to amend Sections 29092, 29093, 29097, 29098, and 29303 of, and to add Section 29094 to, the Food and Agricultural Code, relating to bees, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION. 1. Section 29092 of the Food and Agricultural Code is amended to read:

29092. A person may import or transport any of the following into the state without complying with the requirements which are prescribed by Section 29091:

(a) Queen bees

(b) Packaged comb honey.

(c) Empty package bee cages.

(d) Moving screens.

(e) Bee smokers.

(f) Bee veils.

(g) Hive tools.

(h) Package bees.

SEC. 2. Section 29093 of the Food and Agricultural Code is amended to read:

29093 Except as provided in Section 29094, the certificate required by Section 29091 shall be signed by the State Entomologist, State Apiary Inspector, or comparable officer in charge of apiary inspection for the state of origin and shall certify to all of the following facts:

(a) The name and address of the owner or shipper and the place of destination in this state.

(b) The number of hives, or nuclei which contain bees, the number of used hives either empty or containing comb, and a complete list of any other used beekeeping equipment in the shipment.

(c) The county and state of origin.

(d) The date on which inspection was last made of the apiary in which the bees, comb, used hives, and appliances originated.

(e) The total number of colonies in the apiary at the time of inspection, and the number of colonies found diseased.

(f) That all diseased colonies of bees found upon the inspection were destroyed, removed to a quarantine apiary, or removed to wax salvage prior to the issuance of the certificates.

SEC. 2.7 Section 29094 is added to the Food and Agricultural Code, to read:

29094. In lieu of the requirements of Section 29093, the certificate required by Section 29091 may be a California certificate of inspection issued pursuant to Sections 29111 through 29116 and showing that the comb, bees on comb, or used hives or used appliances had been inspected in California within the 12 months prior to their return to California and at the time of such inspection had been found to have had less than one percent American foulbrood disease.

SEC. 3. Section 29097 of the Food and Agricultural Code is amended to read

29097. (a) If any bees, comb, used hives, or used appliances

entering California are found to be diseased at the time of inspection in this state within 30 days after arrival, the inspector may hold such apiary, lot, or shipment. He shall give notice to the owner or bailee, as prescribed in Section 29064, that the apiary, lot, or shipment is held.

(b) If any load, lot, or shipment of bees, comb, used hives, or used appliances entering California are found at the time of inspection in this state within 30 days after arrival to have more than two percent American foulbrood disease, such load, lot, or shipment of bees, comb, used hives, or used appliances shall be removed from the state and returned to the shipper.

SEC. 4. Section 29098 of the Food and Agricultural Code is amended to read:

29098. Any disease found pursuant to subdivision (a) of Section 29097 shall be abated pursuant to Article 6 (commencing with Section 29151) of this chapter.

SEC. 5. Section 29303 of the Food and Agricultural Code is amended to read:

29303. Any funds collected by the director pursuant to this article shall be deposited into the State Treasury and credited to the Department of Agriculture Fund to be used for bee disease control, for research related to the bee industry that is recommended by the California Apiary Board and approved by the director, and to carry out the provisions of Article 12 (commencing with Section 29321) of this chapter.

CHAPTER 857

An act to amend Section 8004 of, and to add Section 12061 to, the Education Code, relating to vocational education.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 8004 of the Education Code is amended to read:

8004. The council shall have the following duties and responsibilities:

(a) Advise the State Board of Education, the Board of Governors of the California Community Colleges, and the Legislature in the development and preparation of annual and long-range state plans for occupational education - and training, and an annual accountability report.

(b) Prepare and submit a statement to appropriate public agencies, as required pursuant to law, describing its consultation with the State Board of Education, the Board of Governors of the

California Community Colleges, the California Postsecondary Education Commission, and the Legislature on the state plans to the United States Commissioner of Education.

(c) Advise the State Board of Education, the Board of Governors of the California Community Colleges, the California Postsecondary Education Commission, and the Legislature on policy matters arising in the administration of programs under such plans and reports

(d) Evaluate programs, services, and activities of occupational education and training and publish and distribute the results thereof

(e) Prepare and submit through the State Board of Education, the Board of Governors of the California Community Colleges, the California Postsecondary Education Commission, United States Commissioner of Education, the National Advisory Council on Vocational Education, and the Legislature, an annual evaluation report accompanied by such additional comments as the state board and the board of governors deem appropriate which (1) evaluates the programs and services carried out in the year under review to meet the objectives set forth in the state plans, (2) utilizes accountability and program evaluation reports prepared pursuant to Section 112 of Public Law 94-482 by the State Board of Education, (3) recommends such changes as may be warranted by the evaluations

(f) Consult with the Comprehensive Employment and Training Advisory Council to determine the extent to which the vocational education and employment training needs of the state are being met and assess the extent to which vocational education, employment training, vocational rehabilitation and other programs assisted under this act and related acts represent a consistent, integrated, and coordinated approach to meeting such needs; and comment, at least once annually on the reports of the Comprehensive Employment and Training Advisory Council, which comments shall be included in the annual report submitted by the council pursuant to this section and in the annual report submitted by the Comprehensive Employment and Training Advisory Council pursuant to Section 107 of the Comprehensive Employment and Training Act of 1973.

(g) Perform functions identical with or analogous to those stated in subdivisions (a) to (e), inclusive, with respect to programs carried out under Part B of Title X of Public Law 92-318, and Title I, Part I of Public Law 94-482

(h) Provide technical assistance to local advisory committees or councils established pursuant to Section 8070

SEC 2 Section 12061 is added to the Education Code, to read

12061 The State Board of Education shall annually, on or before March 15 of each calendar year, submit any state plan required by the acts of Congress referred to in Sections 12050 and 12051 to the Legislative Analyst. The Legislative Analyst shall review and make recommendations to the Legislature concerning the plan prior to its submission to the United States Commissioner of Education, the United States Office of Education, or to any federal agency or official thereof designated by federal law

CHAPTER 858

An act to add Section 502 to the Penal Code, relating to computer crime.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 502 is added to the Penal Code, to read:

502. (a) For purposes of this section:

(1) "Access" means to instruct, communicate with, store data in, or retrieve data from a computer system or computer network.

(2) "Computer system" means a machine or collection of machines, excluding pocket calculators which are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs and data, that performs functions, including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(3) "Computer network" means an interconnection of two or more computer systems.

(4) "Computer program" means an ordered set of instructions or statements, and related data that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.

(5) "Data" means a representation of information, knowledge, facts, concepts, or instructions, which are being prepared or have been prepared, in a formalized manner, and are intended for use in a computer system or computer network.

(6) "Financial instrument" includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computer system representation thereof.

(7) "Property" includes, but is not limited to, financial instruments, data, computer programs, documents associated with computer systems and computer programs, or copies thereof, whether tangible or intangible, including both human and computer system readable data, and data while in transit.

(8) "Services" includes, but is not limited to, the use of the computer system, computer network, computer programs, or data prepared for computer use, or data contained within a computer system, or data contained within a computer network.

(b) Any person who intentionally accesses or causes to be accessed any computer system or computer network for the purpose of (1) devising or executing any scheme or artifice to defraud or extort or (2) obtaining money, property, or services with false or fraudulent intent, representations, or promises shall be guilty of a

public offense.

(c) Any person who maliciously accesses, alters, deletes, damages, or destroys any computer system, computer network, computer program, or data shall be guilty of a public offense.

(d) Any person who violates the provisions of subdivision (b) or (c) is guilty of a felony and is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both such fine and imprisonment, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(e) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction.

SEC 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 859

An act to amend Section 14019.4 of the Welfare and Institutions Code, and to repeal Section 2 of Chapter 672 of the Statutes of 1976, relating to Medi-Cal.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 14019.4 of the Welfare and Institutions Code is amended to read:

14019.4. (a) Any provider of health care services who obtains a label or copy from the Medi-Cal card or other proof of eligibility pursuant to this chapter shall not seek reimbursement nor attempt to obtain payment for the cost of such covered health care services from the eligible applicant or recipient, or any person other than the department or third party payer who provides a contractual or legal entitlement to health care services.

(b) Whenever a service or set of services rendered to a Medi-Cal beneficiary results in the submission of a claim in excess of five hundred dollars ($500), and the beneficiary has given the provider proof of eligibility to receive such service or services, the provider shall issue the beneficiary a receipt to document that appropriate

proof of eligibility has been provided. The form and content of such receipts shall be determined by the provider but shall be sufficient to comply with the intent of this subdivision. Skilled nursing facilities and intermediate care facilities are exempt from the requirements of this subdivision.

SEC. 2 Section 2 of Chapter 672 of the Statutes of 1976 is repealed.

CHAPTER 860

An act to amend Sections 11501.5, 11555, and 11556 of the Government Code, to amend Sections 6025.5, 13011, and 13020 of the Penal Code, and to amend Sections 731, 780, 1000.7, 1009, 1176, 1177, 1178, 1703, 1737.1, 1753, 1754, 1757, 1760, 1765, 1766, 1767.3, 1767.4, 1767.5, 1772, 1776, 1780, 1782, 1800, 1802, and 1830 of, to add Article 2 (commencing with Section 1710) and Article 2.5 (commencing with Section 1716) to Chapter 1 of Division 2.5 of, and to repeal Article 2 (commencing with Section 1710) of Chapter 1 of Division 2.5 and Sections 1751, 1762, 1764, and 1767 of, the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 11501.5 of the Government Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

11501.5. (a) The following state agencies shall provide language assistance at adjudicatory hearings pursuant to subdivision (d) of Section 11513:

Agricultural Labor Relations Board
State Department of Alcohol and Drug Abuse
Athletic Commission
California Unemployment Insurance Appeals Board
Board of Prison Terms
Board of Cosmetology
State Department of Developmental Services
Public Employment Relations Board
Franchise Tax Board
State Department of Health Services
Department of Housing and Community Development
Department of Industrial Relations
State Department of Mental Health
Department of Motor Vehicles
Notary Public Section, office of the Secretary of State
Public Utilities Commission
Office of Statewide Health Planning and Development

State Department of Social Services
Workers' Compensation Appeals Board
Department of the Youth Authority
Youthful Offender Parole Board
Bureau of Employment Agencies
Board of Barber Examiners
Department of Insurance
State Personnel Board

(b) Nothing in this section shall be construed to prevent any agency other than those listed in subdivision (a) from electing to adopt any of the procedures set forth in subdivision (d), (e), (f), (g), (h), or (i) of Section 11513, except that the State Personnel Board shall determine the general language proficiency of prospective interpreters as described in subdivisions (d) and (e) of Section 11513 unless otherwise provided for as described in subdivision (f) of Section 11513.

SEC. 2. Section 11555 of the Government Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

11555. An annual salary of twenty-six thousand two hundred fifty dollars ($26,250) shall be paid to the following:

(a) Chairman of the Board of Prison Terms
(b) Chairman of the State Water Resources Control Board
(c) Chairman of the Youthful Offender Parole Board.

SEC. 3. Section 11556 of the Government Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

11556. An annual salary of twenty-five thousand dollars ($25,000) shall be paid to each of the following:

(a) Director of Navigation and Ocean Development
(b) Director, Office of Emergency Services
(c) Members of the Board of Prison Terms
(d) Members of the State Water Resources Control Board
(e) Members of the Youthful Offender Parole Board
(f) State Fire Marshal.

SEC. 4. Section 6025.5 of the Penal Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

6025.5. The Director of Corrections, Board of Prison Terms, the Youthful Offender Parole Board, and the Director of the Youth Authority shall file with the Board of Corrections for information of the board or for review and advice to the respective agency as the board may determine, all rules, regulations and manuals relating to or in implementation of policies, procedures, or enabling laws.

SEC. 5. Section 13011 of the Penal Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

13011. The department may serve as statistical and research agency to the Department of Corrections, the Board of Prison Terms, the Board of Corrections, the Department of the Youth Authority, and the Youthful Offender Parole Board.

SEC. 6. Section 13020 of the Penal Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him;

(b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes; and

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

SEC. 7. Section 731 of the Welfare and Institutions Code is amended to read:

731 When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730, and, in addition may order the ward to make restitution or to participate in uncompensated work programs or may commit the ward to a sheltered-care facility or may order that the ward and his or her family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of such minor or may commit the minor to the Department of the Youth Authority.

A minor committed to the Department of the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. Nothing in this section limits the power of the Youthful Offender Parole Board to retain the minor on parole status for the period permitted by Section 1769.

SEC. 8. Section 780 of the Welfare and Institutions Code is amended to read:

780. If any person who has been committed to the Youth Authority appears to be an improper person to be received by or retained in any institution or facility under the jurisdiction of the Youth Authority or to be so incorrigible or so incapable of reformation under the discipline of any institution or facility under the jurisdiction of the Youth Authority as to render his or her retention detrimental to the interests of the Youth Authority, the Youthful Offender Parole Board may order the return of such person

to the committing court. However, the return of any person to the committing court does not relieve the Department of the Youth Authority of any of its duties or responsibilities under the original commitment, and such commitment continues in full force and effect until it is vacated, modified, or set aside by order of the court.

When any such person is so returned to the committing court, his or her transportation shall be made, and the compensation therefor paid, as provided for the execution of an order of commitment.

SEC. 9. Section 1000.7 of the Welfare and Institutions Code is amended to read:

1000.7. As used in this chapter, "Youth Authority" "Authority" and "the Authority" mean and refer to the Department of the Youth Authority and "Board" means and refers to the Youthful Offender Parole Board.

SEC. 10. Section 1009 of the Welfare and Institutions Code is amended to read:

1009. The Youthful Offender Parole Board may order the return of nonresident persons committed to the Department of the Youth Authority or confined in institutions or facilities subject to the jurisdiction of the department to the states in which they have legal residence. Whenever any public officer (other than an officer or employee of the Youth Authority) receives from any private source any moneys to defray the cost of such transportation, he or she shall immediately transmit such moneys to the Youth Authority. All such moneys, together with any moneys received directly by the authority from private sources for transportation of nonresidents, shall be deposited by the Youth Authority in the State Treasury, in augmentation of the current appropriation for the support of the Youth Authority.

SEC. 11. Section 1176 of the Welfare and Institutions Code is amended to read:

1176. When, in the opinion of the Youthful Offender Parole Board, any person committed to or confined in any such school deserves parole according to regulations established for the purpose, and it will be to his or her advantage to be paroled, the board may grant parole under such conditions as it deems best. A reputable home or place of employment shall be provided for each person so paroled.

SEC. 12. Section 1177 of the Welfare and Institutions Code is amended to read:

1177. When any person so paroled has proved his or her ability for honorable self-support, the Youthful Offender Parole Board shall give him or her honorable discharge. Any person on parole who violates the conditions of his or her parole may be returned to the Youth Authority.

SEC. 13. Section 1178 of the Welfare and Institutions Code is amended to read:

1178. The Youthful Offender Parole Board may grant honorable discharge to any person committed to or confined in any such school.

The reason for such discharge shall be entered in the records.

SEC. 14. Section 1703 of the Welfare and Institutions Code is amended to read:

1703. As used in this chapter

(a) "Public offenses" means public offenses as that term is defined in the Penal Code;

(b) "Court" includes any official authorized to impose sentence for a public offense;

(c) "Youth Authority", "Authority", "authority" or "department" means the Department of the Youth Authority;

(d) "Board" or "board" means the Youthful Offender Parole Board.

(e) The masculine pronoun includes the feminine.

SEC. 15. Article 2 (commencing with Section 1710) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code is repealed

SEC. 16. Article 2 (commencing with Section 1710) is added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, to read:

Article 2. Department of the Youth Authority

1710 There is a Department of the Youth Authority.

1711. The Director of the Youth Authority shall be appointed by the Governor with the advice and consent of the Senate. He or she shall hold office at the pleasure of the Governor but before the director may be removed, the procedures set forth in Section 5051 of the Penal Code shall be followed. He or she shall receive an annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, and shall devote his or her entire time to the duties of his or her office.

1712. (a) All powers, duties, and functions pertaining to the care and treatment of wards provided by any provision of law and not specifically and expressly assigned to the Youthful Offender Parole Board shall be exercised and performed by the director. The director shall be the appointing authority for all civil service positions of employment in the department. The director may delegate the powers and duties vested in him or her by law, in accordance with Section 7.

(b) The director is authorized to make and enforce all rules appropriate to the proper accomplishment of the functions of the Department of the Youth Authority. Such rules 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.

(c) The Department of the Youth Authority shall maintain, publish, and make available to the general public, a compendium of rules and regulations promulgated by the department pursuant to this section.

(d) The following exceptions to the procedures specified in this section shall apply to the Department of the Youth Authority:

(1) The department 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 department 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.

1713. (a) The Director of the Youth Authority shall have wide and successful administrative experience in youth or adult correctional programs embodying rehabilitative or delinquency prevention concepts.

(b) The Governor may request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide a list of persons qualified for appointment as Director of the Youth Authority. The Governor may appoint any person from such list of qualified persons or may reject all names and appoint another person who meets the requirements of this section.

1714. (a) It is the intention of the Legislature that the Youthful Offender Parole Board and the Director of the Youth Authority shall cooperate with each other in the establishment of the classification, transfer, discipline, training, and treatment policies of the Department of the Youth Authority, to the end that the objectives of the state youth correctional system can best be attained. The director and the board shall, not less than four times each calendar year, meet for the purpose of discussion of classification, transfer, discipline, training, and treatment policies and problems, and for the purpose of discussion of policies relating to the functions and duties of the board, and it is the intent of the Legislature that whenever possible there shall be agreement on these subjects; however in order to maintain responsibility for the secure and orderly administration of the Youth Authority, the Director of the Youth Authority shall have the final right to determine the policies on classification, transfer, discipline, training and treatment, and the board shall have the final right to determine the policies on its duties and functions.

(b) The Director of the Youth Authority may transfer persons confined in one institution or facility of the Department of the Youth Authority to another. The Youthful Offender Parole Board may request the director to transfer a person who is under the jurisdiction of the department pursuant to Section 1731.5 if, after review of the case history in the course of routine procedures, such transfer is deemed advisable for the further diagnosis and treatment of the ward. The director shall as soon as practicable comply with such

request, provided that, if facilities are not available he or she shall report that fact to the board and shall make the transfer as soon as facilities become available; provided further, that if in the opinion of the director such transfer would endanger security he or she may report that fact to the board and refuse to make such transfer.

1715. From funds available for the support of the Youth Authority, the director may reimburse persons employed by the authority and certified as radiologic technologists pursuant to Chapter 7.4 (commencing with Section 25660) of Division 20 of the Health and Safety Code for the fees incurred both in connection with the obtaining of such certification since July 1, 1971, and with regard to the renewal thereof.

SEC. 17. Article 2.5 (commencing with Section 1716) is added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, to read:

Article 2.5. Youthful Offender Parole Board

1716. (a) There is a Youthful Offender Parole Board, which shall be composed of seven members, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and until the appointment and qualification of his or her successor, and who shall devote their entire time to its work.

(b) The individuals who were members of the Youth Authority Board immediately prior to the effective date of this section, other than the individual who was Director of the Department of the Youth Authority and Chairman of the Youth Authority Board, shall continue in their respective terms of office as members of the Youthful Offender Parole Board. The term of the member appointed to the term commencing March 15, 1976 shall expire March 15, 1980. The terms of the two members appointed to the terms commencing March 15, 1977 shall expire March 15, 1981. The terms of the two members appointed to the terms commencing March 15, 1978 shall expire March 15, 1982. The terms of the two members appointed to the terms commencing March 15, 1979 shall expire March 15, 1983. The members shall be eligible for reappointment and shall hold office until the appointment and qualification of their successors, with the term of each new appointee to commence on the expiration date of the term of his or her predecessor.

(c) All appointments to a vacancy occurring by reason of any cause other than the expiration of a term shall be for the unexpired term. Each member shall hold office until the appointment and qualification of his or her successor.

(d) If the Senate, in lieu of failing to confirm, finds that it cannot consider all or any of the appointments to the Youthful Offender Parole Board adequately because the amount of legislative business and the probable duration of the session does not permit, it may adopt a single house resolution by a majority vote of all members elected to the Senate to that effect and requesting the resubmission

of the unconfirmed appointment or appointments at a succeeding session of the Legislature, whether regular or extraordinary, convening on or after a date fixed in the resolution. This resolution shall be filed immediately after its adoption in the office of the Secretary of State and the appointee or appointees affected shall serve subject to later confirmation or rejection by the Senate.

1717. (a) Persons appointed to the Youthful Offender Parole Board shall have a broad background in and ability for appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which committed, and the evaluation of the individual's progress toward reformation. Insofar as practicable, members shall be selected who have a varied and sympathetic interest in youth correction work including persons widely experienced in the fields of corrections, sociology, law, law enforcement, and education.

(b) The selection of persons and their appointment by the Governor and confirmation by the Senate shall reflect as nearly as possible a cross section of the racial, sexual, economic, and geographic features of the state

(c) One member of the board shall be designated as chairman by the Governor. The chairman shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. He or she shall be the appointing authority for all civil service positions of employment in the board.

1718. (a) The chairman and members of the board shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code and their actual necessary traveling expenses to the same extent as is provided for other state offices.

(b) The Governor may remove any member of the board for misconduct, incompetency or neglect of duty after a full hearing by the Board of Corrections

1719 The following powers and duties shall be exercised and performed by the Youthful Offender Parole Board as such, or may be delegated to a panel, member, or case hearing representative as provided in Section 1721: return of persons to the court of commitment for redisposition by the court, discharge of commitment, orders to parole and conditions thereof, revocation or suspension of parole, recommendation for treatment program, determination of the date of next appearance, return of nonresident persons to the jurisdiction of the state of legal residence.

1720. (a) The case of each ward shall be heard by the board immediately after the case study of the ward has been completed and at such other times as is necessary to exercise the powers or duties of the board

(b) The board shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These

reviews shall be made as frequently as the board considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

(c) Failure of the board to hear or review the case of a ward as required by this section shall not of itself entitle the ward to discharge from the control of the Youth Authority but shall entitle him or her to petition the superior court of the county from which he or she was committed for an order of discharge, and the court shall discharge him or her unless the court is satisfied as to the need for further control.

1721. (a) The Youthful Offender Parole Board shall adopt policies governing the performance of its functions by the full board, or, pursuant to delegation, by panels, or referees. Where the board performs its functions meeting en banc in either public or executive sessions to decide matters of policy, at least five members shall be present and no such action shall be valid unless it is concurred in by a majority vote of those present.

(b) Case hearing representatives may be employed to participate with the board in the hearing of cases and to whom authority may be delegated as provided in this section.

(c) The board may delegate its authority to hear, consider, and act upon cases to members or case hearing representatives, sitting either on a panel or as a referee. A panel may consist of two or more members, a member and a case hearing representative, or two case hearing representatives. Two members of a panel shall constitute a quorum, and no action of the panel shall be valid unless concurred in by a majority vote of those present.

(d) When delegating its authority, the board may condition finality of the decision of the panel or referee to whom authority is delegated on concurrence of a member or members of the board. In determining whether, in any case, it shall delegate its authority and the extent of such delegation, the board shall take into account the degree of complexity of the issues presented by the case.

(e) The board shall adopt rules under which a person under the jurisdiction of the Youth Authority or other persons, as specified in such rules, may appeal any decision of a case hearing representative. The board shall consider and act upon the appeal in accordance with such rules.

1722. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Youthful Offender Parole Board, shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11731) 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.

1723. (a) Except as provided in Section 1721, every order granting and revoking parole and issuing final discharges to any person under the jurisdiction of the Youth Authority shall be made by the Youthful Offender Parole Board and the board may not delegate the making of such decisions to any other body or person.

(b) All other powers conferred to the Youthful Offender Parole Board may be exercised through subordinates or delegated to the Department of the Youth Authority under rules established by the board. Any person subjected to an order of such subordinates or of the department pursuant to such delegation may petition the board for review. The board may review such orders under appropriate rules and regulations.

1724. The Youthful Offender Parole Board is limited in its expenditures to funds specifically made available for its use.

1725. The Youthful Offender Parole Board shall succeed to and shall exercise and perform all powers and duties granted to, exercised by, and imposed upon the Youth Authority Board. The Youth Authority Board is abolished.

1726. (a) Such employees of the Youthful Offender Parole Board as are needed to carry out its functions shall be selected and appointed pursuant to the State Civil Service Act.

(b) All officers and employees of the Department of the Youth Authority who on the effective date of this section are serving in the state civil service, other than as temporary employees, as part of the direct staff of the Youth Authority Board, including, but not limited to, those officers and employees performing the functions of administrative officer, case hearing representative, and case hearing coordinator, shall be transferred to the Youthful Offender Parole Board The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Youthful Offender Parole Board pursuant to the State Civil Service Act.

SEC 18. Section 1737.1 of the Welfare and Institutions Code is amended to read

1737.1. Whenever any person who has been convicted of a public offense in adult court and committed to and accepted by the Youth Authority appears to the Youthful Offender Parole Board, either at the time of his or her first appearance before the board or thereafter, to be an improper person to be retained by the Youth Authority, or to be so incorrigible or so incapable of reformation under the discipline of the Youth Authority as to render his or her detention detrimental to the interests of the Youth Authority and the other

persons committed thereto, the board may order the return of such person to the committing court. The court may then commit him to a state prison or sentence him to a county jail as provided by law for punishment of the offense of which he was convicted. The maximum term of imprisonment for a person committed to a state prison under this section shall be a period equal to the maximum term prescribed by law for the offense of which he was convicted less the period during which he was under the control of the Youth Authority. This section shall not apply to commitments from juvenile court.

SEC. 19. Section 1751 of the Welfare and Institutions Code is repealed.

SEC. 20. Section 1753 of the Welfare and Institutions Code is amended to read:

1753. For the purpose of carrying out its duties, the department is authorized to make use of law enforcement, detention, probation, parole, medical, educational, correctional, segregative and other facilities, institutions and agencies, whether public or private, within the state. The director may enter into agreements with the appropriate public officials for separate care and special treatment in existing institutions of persons subject to the control of the department.

SEC. 21. Section 1754 of the Welfare and Institutions Code is amended to read:

1754. Nothing in this chapter shall be taken to give the Youthful Offender Parole Board or the director control over existing facilities, institutions or agencies; or to require them to serve the board or the director inconsistently with their functions, or with the authority of their officers, or with the laws and regulations governing their activities; or to give the board or the director power to make use of any private institution or agency without its consent; or to pay a private institution or agency for services which a public institution or agency is willing and able to perform.

SEC. 22. Section 1757 of the Welfare and Institutions Code is amended to read:

1757. The director may inspect all public institutions and agencies whose facilities he or she and the Youthful Offender Parole Board are authorized to utilize and all private institutions and agencies whose facilities he and the board are using. Every institution or agency, whether public or private, is required to afford the director reasonable opportunity to examine or consult with persons committed to the Youth Authority who are for the time being in the custody of the institution or agency.

SEC. 23. Section 1760 of the Welfare and Institutions Code is amended to read:

1760. The director is hereby authorized when necessary and when funds are available for such purposes to establish and operate

(a) Places for the detention, prior to examination and study, of all persons committed to the Youth Authority;

(b) Places for examination and study of persons committed to the

Youth Authority,

(c) Places of confinement, educational institutions, hospitals and other correctional or segregative facilities, institutions and agencies, for the proper execution of the duties of the Youth Authority;

(d) Agencies and facilities for the supervision, training and control of persons who have not been placed in confinement or who have been released from confinement by the Youthful Offender Parole Board upon conditions, and for aiding such persons to find employment and assistance;

(e) Agencies and facilities designed to aid persons who have been discharged by the Youthful Offender Parole Board from its control in finding employment and in leading a law-abiding existence.

SEC. 24. Section 1762 of the Welfare and Institutions Code is repealed.

SEC. 25. Section 1764 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 1765 of the Welfare and Institutions Code is amended to read·

1765 (a) Except as otherwise provided in this chapter, the Youthful Offender Parole Board shall keep under continued study a person in its control and shall retain him or her, subject to the limitations of this chapter, under supervision and control so long as in its judgment such control is necessary for the protection of the public

(b) The board shall discharge such person as soon as in its opinion there is reasonable probability that he or she can be given full liberty without danger to the public.

SEC 27. Section 1766 of the Welfare and Institutions Code is amended to read·

1766. When a person has been committed to the Youth Authority, the Youthful Offender Parole Board may

(a) Permit him his liberty under supervision and upon such conditions as it believes best designed for the protection of the public

(b) Order his or her confinement under such conditions as it believes best designed for the protection of the public, except that a person committed to the Youth Authority pursuant to Sections 731 or 1731 5 may not be held in physical confinement for a total period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought the minor under the jurisdiction of the juvenile court, or which resulted in the commitment of the young adult to the Youth Authority. Nothing in this subdivision limits the power of the board to retain the minor or the young adult on parole status for the period permitted by Sections 1769, 1770, and 1771;

(c) Order reconfinement or renewed release under supervision as often as conditions indicate to be desirable;

(d) Revoke or modify any order except an order of discharge as often as conditions indicate to be desirable;

(e) Modify an order of discharge if conditions indicate that such modification is desirable and when such modification is to the benefit of the person committed to the authority;

(f) Discharge him or her from its control when it is satisfied that such discharge is consistent with the protection of the public.

SEC. 28 Section 1767 of the Welfare and Institutions Code is repealed.

SEC. 29. Section 1767.3 of the Welfare and Institutions Code is amended to read:

1767.3. (a) The Youthful Offender Parole Board may suspend, cancel, or revoke any parole and may order returned to custody of the department any person committed to it who is upon parole.

(b) The written order of the chairman of the board is a sufficient warrant for any peace officer to return to the custody of the department any person committed to it who is upon parole or who has been permitted his or her liberty upon condition.

(c) The written order of the Director of the Department of the Youth Authority is a sufficient warrant for any peace officer to return to the custody of the department, pending further proceedings before the Youthful Offender Parole Board, any person committed to the department who is upon parole or who has been permitted his or her liberty upon condition, or for any peace officer to return to the custody of the department any person committed to it who has escaped from the custody of the department or from any institution in which he or she has been placed by the department.

(d) All peace officers shall execute any such orders in like manner as ordinary criminal process.

SEC 30 Section 1767 4 of the Welfare and Institutions Code is amended to read:

1767.4. Whenever any person paroled by the Youthful Offender Parole Board is returned to the department upon the order of the board by a peace officer or probation officer, the officer shall be paid the same fees and expenses as are allowed such officers by law for the transportation of persons to institutions or facilities under the jurisdiction of the department

SEC. 31 Section 1767.5 of the Welfare and Institutions Code is amended to read.

1767.5. The authority may pay any private home for the care of any person committed to the authority and paroled by the Youthful Offender Parole Board to the custody of the private home (including both persons committed to the authority under this chapter and persons committed to it by the juvenile court) at a rate to be approved by the Department of Finance. Payments for such care of paroled persons may be made from funds available to the authority for such purpose, or for the support of the institution or facility under the jurisdiction of the authority from which the person has been paroled

SEC. 32. Section 1772 of the Welfare and Institutions Code is amended to read

1772. Every person honorably discharged from control by the Youthful Offender Parole Board who has not, during the period of control by the authority been placed by the authority in a state prison shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, and every person discharged may petition the court which committed him or her, and the court may upon such petition set aside the verdict of guilty and dismiss the accusation or information against the petitioner who shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, such a person shall not be eligible for appointment as a peace officer employed by any public agency, other than the Department of the Youth Authority, if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code.

Every person discharged from control by the Youthful Offender Parole Board shall be informed of this privilege in writing at the time of discharge

"Honorably discharged" as used in this section means and includes every person whose discharge is based upon a good record on parole.

SEC. 33. Section 1776 of the Welfare and Institutions Code is amended to read.

1776. Whenever an alleged parole violator is detained in a county detention facility pursuant to a valid exercise of the powers of the Department of the Youth Authority or of the Youthful Offender Parole Board as specified in Sections 1753, 1755, and 1767.3 and when such detention is initiated by the department or the board and is related solely to a violation of the conditions of parole and is not related to a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of the Youth Authority. Such reimbursement shall be expended for maintenance, upkeep, and improvement of juvenile hall and jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of the reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose juvenile hall or jail facilitiy or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code or Section 210 of this code.

SEC 33.5. Section 1776 of the Welfare and Institutions Code is amended to read:

1776. Whenever an alleged parole violator is detained in a county detention facility pursuant to a valid exercise of the powers of the Department of the Youth Authority or of the Youthful Offender

Parole Board as specified in Sections 1753, 1755, and 1767.3 and when such detention is initiated by the department or the board and is related solely to a violation of the conditions of parole and is not related to a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of the Youth Authority. Such reimbursement shall be expended for maintenance, upkeep, and improvement of juvenile hall and jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of the reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withold all or part of such net reimbursement to a county whose juvenile hall or jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code or Section 210 of this code.

"Costs of such detention", as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

SEC. 34 Section 1780 of the Welfare and Institutions Code is amended to read:

1780 If the date of discharge occurs before the expiration of a period of control equal to the maximum term prescribed by law for the offense of which he or she was convicted, and if the Youthful Offender Parole Board believes that unrestrained freedom for said person would be dangerous to the public, the board shall petition the court by which the commitment was made.

The petition shall be accompanied by a written statement of the facts upon which the board bases its opinion that discharge from its control at the time stated would be dangerous to the public, but no such petition shall be dismissed merely because of its form or an asserted insufficiency of its allegations; every order shall be reviewed upon its merits.

SEC. 35 Section 1782 of the Welfare and Institutions Code is amended to read:

1782. Such committing court may thereupon discharge the person, admit him or her to probation or may commit him or her to the state prison The maximum term of imprisonment for a person committed to a state prison under this section shall be a period equal to the maximum term prescribed by law for the offense of which he or she was convicted less the period during which he or she was under the control of the Youth Authority.

SEC. 36. Section 1800 of the Welfare and Institutions Code is amended to read:

1800. Whenever the Youthful Offender Parole Board determines that the discharge of a person from the control of the Youth Authority at the time required by Section 1769, 1770, 1770.1, or 1771,

as applicable, would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality, the board, through its chairman, shall make application to the committing court for an order directing that the person remain subject to the control of the authority beyond such time. The application shall be filed at least 90 days before the time of discharge otherwise required. The application shall be accompanied by a written statement of the facts upon which the board bases its opinion that discharge from control of the Youth Authority at the time stated would be physically dangerous to the public, but no such application shall be dismissed nor shall an order be denied merely because of technical defects in the application.

SEC. 37. Section 1802 of the Welfare and Institutions Code is amended to read:

1802. When an order for continued detention is made as provided in Section 1801, the control of the authority over the person shall continue, subject to the provisions of this chapter, but, unless the person is previously discharged as provided in Section 1766, the Youthful Offender Parole Board shall, within two years after the date of such order in the case of persons committed by the juvenile court, or within five years after the date of such order in the case of persons committed after conviction in criminal proceedings, file a new application for continued detention in accordance with the provisions of Section 1800 if continued detention is deemed necessary Such applications may be repeated at intervals as often as in the opinion of the board may be necessary for the protection of the public, except that the department shall have the power, in order to protect other persons in the custody of the department to transfer the custody of any person over 21 years of age to the Director of Corrections for placement in the appropriate institution.

Each person shall be discharged from the control of the authority at the termination of the period stated in this section unless the board has filed a new application and the court has made a new order for continued detention as provided above in this section.

SEC. 38 Section 1830 of the Welfare and Institutions Code is amended to read:

1830. The Director of the Youth Authority may, with approval of the Youthful Offender Parole Board, participate in a local work furlough program established pursuant to subdivision (a) of Section 1208 of the Penal Code, or conduct or discontinue a work furlough rehabilitation program, in accordance with the provisions of this article, for appropriate classes of wards at one or more Youth Authority institutions. He or she may designate any officer or employee of the department to be the Youth Authority work furlough administrator and may assign personnel to assist the administrator

SEC. 39. It is the intent of the Legislature, if this bill and Assembly Bill 1088 are both chaptered and become effective January 1, 1980, both bills amend Section 1776 of the Welfare and Institutions

Code, and this bill is chaptered after Assembly Bill 1088, that the amendments to Section 1776 proposed by both bills be given effect and incorporated in Section 1776 in the form set forth in Section 33.5 of this act. Therefore, Section 33.5 of this act shall become operative only if this bill and Assembly Bill 1088 are both chaptered and become effective January 1, 1980, both amend Section 1776, and this bill is chaptered after Assembly Bill 1088, in which case Section 33 of this act shall not become operative.

CHAPTER 861

An act to amend Section 25100 of the Corporations Code, relating to corporations.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1; provided (1) the corporation limits its shareholders or members primarily to ultimate consumers only or producers only and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one hundred dollars ($100). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation.

SEC. 2. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a

parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any 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.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1; provided (1) the corporation limits its shareholders or members primarily to ultimate consumers only or producers only and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one hundred dollars ($100). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser; and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 3. 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, or regulated, under the Credit Union Law

(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.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1; provided (1) the corporation limits its shareholders or members primarily to ultimate consumers only or producers only and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one hundred dollars ($100). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation.

SEC. 4. 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, or regulated, under the Credit Union Law.

(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.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1; provided (1) the corporation limits its shareholders or members primarily to ultimate consumers only or producers only and (2) the aggregate investment or any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one hundred dollars ($100). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements.

(1) The pool consists of mortgage loans originated or acquired in

the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser; and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 5. It is the intent of the Legislature that if this bill and Senate Bill 181 or Assembly Bill 372, or both, are chaptered and become effective January 1, 1980, each of the bills amend Section 25100 of the Corporations 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 181 are both chaptered and become effective January 1, 1980, both bills amend Section 25100 of the Corporations Code, but Assembly Bill 372 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 181, the amendments proposed by both bills shall be given effect and incorporated in Section 25100 in the form set forth in Section 2 of this act. Therefore, if this bill and Senate Bill 181 are both chaptered and become effective January 1, 1980, both bills amend Section 25100, this bill is chaptered after Senate Bill 181, and Assembly Bill 372 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 372 are both chaptered and become effective January 1, 1980, both bills amend Section 25100 of the Corporations Code, but Senate Bill 181 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 372, the amendments proposed by both bills shall be given effect and incorporated in Section 25100 in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill 372 are both chaptered and become effective January 1, 1980, both bills amend Section 25100, this bill is chaptered after Assembly Bill 372, and Senate Bill 181 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 Senate Bill 181 and Assembly Bill 372 are all chaptered and become effective January 1, 1980, all three bills amend Section 25100 of the Corporations Code, and this bill is chaptered after Senate Bill 181 and Assembly Bill 372, the amendments proposed by all three bills shall be given effect and incorporated in Section 25100 in the form set forth in Section 4 of this act. Therefore, if this bill and Senate Bill 181 and Assembly Bill 372 are all chaptered and become effective January 1, 1980, all three bills amend Section 25100 of the Corporations Code, and this bill is chaptered after Senate Bill 181 and Assembly Bill 372, Section 4 of this act shall be operative and Sections 1, 2, and 3 of this act shall not become operative.

CHAPTER 862

An act to amend Section 549 of the Civil Code, to amend Section 53069.9 of the Government Code, and to add Section 2713 to the Public Utilities Code, relating to water.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 549 of the Civil Code is amended to read:

549. (a) All corporations formed to supply water to cities or towns shall furnish pure freshwater to the inhabitants thereof, for family uses, so long as the supply permits, at reasonable rates and without distinction of persons, upon proper demand therefor; and shall furnish water to the extent of their means, in case of fire or other great necessity, free of charge. The board of supervisors, or the proper city or town authorities, may prescribe proper rules relating to the delivery of water, not inconsistent with the laws of the state.

(b) (1) A corporation formed to supply water to cities or towns shall not charge, levy, assess, fix, or collect any charge, tax, fee, rate, assessment, or levy of any kind whatsoever in connection with its water system on or from any entity providing fire protection services to others for supplying water for such fire protection purposes within the service area of such corporation or for any costs of operation, installation, capital, maintenance, repair, alteration, or replacement of facilities related to supplying water for such fire protection purposes within the service area of such corporation, except pursuant to a written agreement with such entity providing fire protection services.

(2) The provisions of paragraph (1) of this subdivision shall not restrict or limit a corporation formed to supply water to cities or towns from levying charges for water service or facilities, including water for fire protection purposes, on any person, property, or entity,

whether public or private, other than on an entity providing fire protection service.

Such charges shall be collected from such other persons, property, or entities pursuant to existing provisions of law which authorize such charges, or from an entity providing fire protection services only pursuant to the written agreement authorizing such charges.

(3) For the purposes of this subdivision, "entity providing fire protection service" means a city, county, or city and county, whether general law or chartered, or a fire company, fire protection district, or any other person, association, company, corporation, district, municipal corporation, or any other public or private entity, which public or private entity or person provides fire protection services to any other public or private entity or person.

SEC. 2. Section 53069.9 of the Government Code is amended to read:

53069.9. (a) Any public agency providing water for fire protection purposes may, by ordinance or resolution, fix and collect a charge to pay the costs of fire protection services for operation, installation, capital, maintenance, repair, alteration, or replacement of facilities and equipment.

Except as provided in subdivision (b), any such charge fixed pursuant to this section, may be made on all land within the public agency to which water is made available for fire protection purposes. The legislative body of the agency which fixes such a charge may establish schedules varying the charges in different localities within the agency depending on the actual cost of installing and maintaining the fire hydrants Such charges may be collected at the same time and in the same manner as other water rates or water charges collected by the public agency.

(b) (1) A public agency providing water for fire protection purposes shall not charge, levy, assess, fix, or collect any charge, tax, fee, rate, assessment, or levy of any kind whatsoever in connection with its water system on or from any entity providing fire protection service to others for supplying water for such fire protection purposes within the service area of such entity providing fire protection service or for any costs of operation, installation, capital, maintenance, repair, alteration, or replacement of facilities related to supplying water for such fire protection purposes within the service area of such entity providing fire protection service, except pursuant to a written agreement with such entity providing fire protection service

(2) The provisions of paragraph (1) of this subdivision shall not restrict or limit a public agency providing water for fire protection purposes from levying charges for water service or facilities, including water for fire protection purposes, on any person, property, or entity, whether public or private, other than on an entity providing fire protection service.

Such charges shall be collected from such other persons, property, or entities pursuant to existing provisions of law which authorize

such charges, or from an entity providing fire protection services only pursuant to a written agreement authorizing such charges.

(c) For the purposes of this section, "entity providing fire protection services" means a city, county, or city and county, whether general law or chartered, or a fire company, fire protection district, or any other person, association, company, corporation, district, municipal corporation, or any other public or private entity, which public or private entity or person provides fire protection services to any other public or private entity or person.

SEC. 3. Section 2713 is added to the Public Utilities Code, to read:

2713. (a) No water corporation subject to the jurisdiction and control of the commission and the provisions of Part 1 (commencing with Section 201) of this division shall make any charge upon any entity providing fire protection service to others for furnishing water for such fire protection purposes or for any costs of operation, installation, capital, maintenance, repair, alteration, or replacement of facilities related to furnishing water for such fire protection purposes within the service area of such water corporation, except pursuant to a written agreement with such entity providing fire protection services. A water corporation shall furnish water for fire protection purposes to the extent of its means and as a condition of a certificate of public convenience and necessity, in case of fire or other great necessity, within the boundaries of the territory served by it for use within such territory.

(b) The provisions of subdivision (a) shall not restrict or limit a water corporation furnishing water for fire protection purposes from levying charges for water service or facilities, including water for fire protection purposes, on any person, property, or entity, whether public or private, other than on an entity providing fire protection service.

Such charges shall be collected from such other persons, property, or entities pursuant to existing provisions of law which authorize such charges, or from an entity providing fire protection services only pursuant to a written agreement authorizing such charges.

(c) For the purposes of this section, "entity providing fire protection service" means a city, county, city and county, whether general law or chartered, and a fire company, fire protection district, or any other person, association, company, corporation, special district, municipal corporation, or any other public or private entity, which public or private entity or person provides fire protection services to any other public or private entity or person.

CHAPTER 863

An act to add Sections 6012.2 and 6276 1 to the Revenue and Taxation Code, and to add Sections 5350.7 and 11951 to the Vehicle Code, relating to mobilehomes.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 6012.2 is added to the Revenue and Taxation Code, to read:

6012.2 (a) For purposes of this part, "gross receipts" from the sale of a used mobilehome, as defined in Sections 396 and 665 of the Vehicle Code, and the "sales price" of a used mobilehome, sold or stored, used, or otherwise consumed in this state shall exclude the separately stated value of in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings or other items not part of the mobilehome as a vehicle, when a registered or legal owner sells a used mobilehome through a person licensed under the Vehicle Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131 6 of the Business and Professions Code

(b) For the purposes of this part, "gross receipts" from the sale of a mobilehome, whether new or used, and the "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome.

SEC 2 Section 6276.1 is added to the Revenue and Taxation Code, to read.

6276 1 (a) For purposes of Section 6276, "sales price" of a used mobilehome, as defined in Sections 396 and 665 of the Vehicle Code, shall exclude the separately stated value of in-place location, awning, skirting, carport, patio, landscaping, shrubs, unattached furnishings or other items not part of the mobilehome as a vehicle, when a registered or legal owner sells a used mobilehome through a person licensed under the Vehicle Code as a dealer and not on the dealer's own account or through a licensed real estate broker acting pursuant to Section 10131 6 of the Business and Professions Code.

(b) For purposes of Section 6276, "sales price" of a mobilehome, whether new or used, shall exclude the amount of separately stated escrow fees on the sale of such mobilehome

SEC 3. Section 5350 7 is added to the Vehicle Code, to read:

5350 7 (a) The department shall include on the potential registration card, or on an accompanying document, of every used mobilehome on which the registration has been transferred during the period from January 1, 1977 to January 1, 1980, a notice, in a form agreed upon by the State Board of Equalization and the department, indicating that anyone who has purchased a used mobilehome

during that period through a dealer and not on the dealer's own account may be entitled to a refund of use tax paid on that portion of the purchase price which is attributable to the value of in-place location, awnings, skirting, carport, patio, landscaping, shrubs, unattached furnishings or other items not part of the mobilehome as a vehicle.

(b) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section.

SEC. 4. Section 11951 is added to the Vehicle Code, to read:

11951. Upon receipt of proof to their satisfaction that, in connection with the sale of a mobilehome through a dealer and not on the dealer's own account, use tax has been paid on items not part of a mobilehome as a vehicle as set forth in Section 6012.2 of the Revenue and Taxation Code, the State Board of Equalization shall refund such overpayment to the purchaser of the mobilehome.

SEC. 5. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to Section 2230 since no local agency will incur an actual loss of revenue, since the provisions of this act apply to the sale or use of property which the Legislature had not intended to subject to the sales or use tax.

CHAPTER 864

An act to add Chapter 3.5 (commencing with Section 1020) to Part 3 of Division 2 of the Labor Code, relating to contractors.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Chapter 3.5 (commencing with Section 1020) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 3.5. CONTRACTORS

1020. It is the intent of the Legislature in enacting this chapter to establish a citation system for the imposition of prompt and effective civil sanctions against violators of the laws and regulations of this state relating to the employment of workers by unlicensed contractors.

1021. Any person who does not hold a valid state contractor's license issued pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and who employs any worker to perform services for which such a license is required, shall be subject to a civil penalty in the amount of one

hundred dollars ($100) per employee for each day of such employment. The civil penalties provided for by this section are in addition to any other penalty provided by law.

1022. If upon inspection or investigation the Labor Commissioner determines that any person is employing workers in violation of Section 1021, he may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated.

1023. (a) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, he shall within 10 business days after service of the citation notify the office of the Labor Commissioner which appears on the citation of his request for an informal hearing. The Labor Commissioner or his deputy or agent shall, within 20 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed. If the person receiving the citation does not request a hearing with the Labor Commissioner within the prescribed time, the proposed civil penalty shall be deemed a final order of the Labor Commissioner and shall not be subject to further administrative review. The Labor Commissioner's determination after the conclusion of the hearing shall be deemed the final order of the director and shall not be subject to further administrative review.

(b) A person to whom a citation has been issued, shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 10 business days after issuance of the citation.

(c) The Labor Commissioner shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon or found to be due after a hearing. The Labor Commissioner may maintain an action in any court of competent jurisdiction to recover the amount of civil penalties found to be due.

CHAPTER 865

An act to add Section 11861 to, and to repeal and add Section 11479 of, the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 11479 of the Health and Safety Code is repealed.

SEC. 2. Section 11479 is added to the Health and Safety Code, to read:

11479. Notwithstanding the provisions of Sections 11474 and 11474.5, at any time after seizure by a law enforcement agency of a suspected controlled substance, that amount in excess of 10 pounds in gross weight may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed.

(b) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance sampled and to be destroyed.

(c) The gross weight of the suspected controlled substance has been determined, either by actually weighing the suspected controlled substance or by estimating such weight after dimensional measurement of the total suspected controlled substance. When the suspected controlled substance consists of growing or harvested plants, only a representative sample need to be retained for evidentiary purposes.

(d) The chief of the law enforcement agency has determined that it is not reasonably possible to preserve the suspected controlled substance in place, or to remove the suspected controlled substance to another location. In making this determination, the difficulty of transporting and storing the suspected controlled substance to another site and the storage facilities may be taken into consideration.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting the information required by subdivisions (a), (b), (c), and (d) together with information establishing the location of the suspected controlled substance, and specifying the date and time of the destruction In the event that there are no criminal proceedings pending which pertain to that suspected controlled substance, the affidavit may be filed in any court within the county which would have jurisdiction over a person against whom such criminal charges might be filed.

SEC. 3. Section 11861 is added to the Health and Safety Code, to read.

11861 There is hereby created in state government an Advisory Council on Drug Abuse consisting of seven members. The

membership shall consist of the Attorney General, the Superintendent of Public Instruction, the Secretary of the Health and Welfare Agency, and four public members appointed by the Governor. Two of the public members shall be representatives of local criminal justice agencies and two of the public members shall represent local drug treatment and prevention organizations.

The Governor shall designate the chairman of the council.

The council shall have the following functions:

(a) Review and evaluate the effectiveness of state drug abuse enforcement, prevention, and treatment policies.

(b) Encourage the development of integrated and cooperative state drug abuse policies involving drug abuse law enforcement and drug abuse prevention and treatment.

(c) Review the priorities and allocation of funds and other resources of state agencies with responsibilities for drug abuse enforcement, prevention, and treatment.

(d) Report annually to the Governor and the Legislature concerning its activities during the previous year, its assessment and the effectiveness of state policies and programs, and any recommendations it deems necessary to promote the development of a more effective statewide drug abuse enforcement, prevention, and treatment strategy.

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

SEC 4. The California Council on Criminal Justice is encouraged to make funds available from federal money under its control to enable the Advisory Council on Drug Abuse to carry out its functions. Contingent upon the availability of such funding, the Advisory Council on Drug Abuse may appoint an executive officer as provided for in subdivision (e) of Section 4 of Article VII of the California Constitution. Establishment of any additional staff positions shall be subject to approval of the Director of Finance.

SEC. 5 Contingent upon the availability of federal funds under its control, the Advisory Council on Drug Abuse shall direct and evaluate the safety and effectiveness of techniques used to destroy large quantities of seized suspected controlled substances. The evaluation shall be conducted in conjunction with the California Department of Justice.

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

SEC 6 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the Legislature finds and declares that there are no new duties, obligations, or responsibilities imposed on local government by this act that require reimbursement It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3

(commencing with Section 2201) of Part 4 of Division 1 of that code.

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

The previous statutory authority for the Advisory Council on Drug Abuse was repealed on July 1, 1979. It is of critical importance that the Advisory Council on Drug Abuse evaluate destruction techniques utilized in conjunction with seizure of the 1979 illegal marijuana harvest.

CHAPTER 866

An act to amend Section 18710 of the Government Code, relating to the state civil service.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 18710 of the Government Code is amended to read:

18710. All orders and decisions of the board made pursuant to Article VII of the State Constitution or this part shall be obeyed by and are binding upon appointing powers and all their employees, including their personnel officers, regardless of whether an appointing power agrees or disagrees with a decision or order of the board.

All orders and decisions, other than orders or decisions of the board itself, shall be reviewed by the executive officer or an employee of the board designated by the executive officer.

If any appointing power refuses or neglects to comply with any such order or decision, the board may issue an order to show cause, directed to such appointing power, why the board should not file a petition for a writ of mandate to compel such appointing power to comply with such order or decision.

If the board finds that no good cause exists for the refusal or neglect of the appointing power to comply with such order or decision, the board shall file a petition for a writ of mandate in the manner and in the court provided for by law to compel such appointing power to comply with such order or decision.

This procedure for the enforcement of the orders and decisions of the board is in addition to any other means or procedure which may be provided by law.

CHAPTER 867

An act to add Section 223 to the Health and Safety Code, relating to hospital services.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 223 is added to the Health and Safety Code, to read:

223. Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, the State Director of Health Services may, after a request by a board of supervisors of an affected county and after a public hearing held in accordance with Section 11420 of the Government Code, waive provisions of regulations which pertain to the provision of hospital services in a hospital operated by a county or under contract to a county for a county which has a population of 200,000 or less on January 1, 1980, if the director makes a finding that the waiver would not affect adversely the health and safety of persons in such county.

The authority contained in this section shall be in addition to, and shall not supersede or limit, any other provision of law authorizing the waiver by the state department of requirements contained in regulations adopted by the state department relating to health facilities.

CHAPTER 868

An act relating to the California Coastal Act of 1976, and making an appropriation therefor

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. There is hereby appropriated from the Environmental Protection Program Fund in the State Treasury the sum of twelve thousand dollars ($12,000) to the California Coastal Commission for the purposes of preparing a coastal access guide or guides concurrently with completion of the local coastal programs pursuant to the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Such coastal access guide or guides shall designate for public access only such areas as are open for public use, as provided in Section 30212 of the Public Resources Code, at the time of completion of the

guide or guides; shall include information on the responsibilities of persons seeking and enjoying access; shall specify any applicable rules and regulations for use of each public access area; and shall include measures designed to prevent trespass and damage to public and private property.

It is the intent of the Legislature that future funding necessary for the completion and distribution of the coastal access guide or guides be provided through the normal budget process

---

CHAPTER 869

An act to amend Section 41403 of the Education Code, relating to certificated school employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 41403 of the Education Code is amended to read.

41403 The Superintendent of Public Instruction shall, for each current fiscal year, determine for each school district in the state, to two decimal points, the following.

(a) The total number of administrative employees, except those serving in positions which are supported by categorical grants from any source and are in programs which require specific teacher administrator ratios, or which are supported by federal funds. As to those serving in positions which are not supported completely by such categorical grants from any source or completely by federal funds, the number of employees reported shall include the full-time equivalent of all fractional time attributable to that time not supported by categorical grants or federal funds.

(b) The total number of teachers except those serving in positions which are supported by federal funds or by categorical grants from any source and are in programs which require specific teacher administrator ratios. As to those serving in positions which are not supported completely by such categorical grants from any source or completely by federal funds, the number of employees reported shall include the full-time equivalent of all fractional time attributable to that time not supported by categorical grants or federal funds Substitute teachers may be counted as teachers only if the employee for whom they are substituting is not counted In no event shall the number of full-time equivalent teachers reported be greater than the number of full-time equivalent teaching positions in the district

(c) The total maximum number of administrative employees which should be employed by the district based upon the application

of the appropriate ratio prescribed by Section 41402 to the number of teachers determined pursuant to subdivision (b).

(d) The number of administrative employees in excess of the number allowable without penalty as determined by subtracting the number determined pursuant to subdivision (c) from the number determined pursuant to subdivision (a).

The number of employees reported pursuant to subdivisions (a), (b), (c), and (d) shall include the full-time equivalent of all fractional time of such employees.

No individual may be counted as more than one full-time equivalent employee.

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 Superintendent of Public Instruction to administer the provisions of this act in conjunction with similar provisions that the Superintendent will administer before January 1, 1980, it is necessary that this bill take effect immediately.

CHAPTER 870

An act to amend Section 13923 of the Government Code, relating to payroll deductions.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 13923 of the Government Code is amended to read:

13923. The board may approve plans for payroll deduction from the salaries or wages of state officers and employees under Section 1156.3 for charitable contributions to the agency handling the principal combined fund drive in any area The board shall establish necessary rules and regulations, including:

(a) Standards for establishing what constitutes the principal combined fund drive in an area.

(b) A requirement that the agency to receive such contributions shall pay, for deposit in the General Fund, the additional cost to the state of making such deductions and remitting the proceeds, as determined by the Controller.

(c) Provisions for standard amounts of deductions from which each state officer or employee may select the contribution he desires to make, if any.

(d) A prohibition upon state officers or employees authorizing more than one payroll deduction for charitable purposes to be in

effect at the same time.

(e) A provision authorizing the Controller to combine in his records deductions for employee association dues, if authorized, and charitable deductions, if authorized.

The State Board of Control, in addition, may approve requests of any charitable organization qualified as an exempt organization under Section 23701d of the Revenue and Taxation Code, or paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, which is not an affiliated member beneficiary of the principal combined fund drive to receive designated deductions from the principal fund drive.

The principal combined fund drive agency, any charitable organization which is an affiliated member beneficiary of the principal combined fund drive, and any charitable organization approved by the State Board of Control to receive designated deductions on the payroll authorization form of the principal fund drive, shall certify under penalty of perjury to the State Board of Control that it is in compliance with the provisions of the Fair Employment Practice Act, Part 4.5 (commencing with Section 1410) of Division 2 of the Labor Code, as a condition of receiving such designated deductions.

The principal combined fund drive shall obtain from the State Board of Control the list of approved nonaffiliated beneficiaries, eligible for designated deductions in its approved drive area, and shall provide such information to each employee at the time of the principal fund drive. The principal combined drive agency shall provide a designation form for the employee to indicate those amounts to be contributed to affiliated and nonaffiliated beneficiaries. The designation form shall consist of a copy for each of the following: (1) the employee, (2) the employee's designated beneficiary agency, and (3) the principal combined fund drive agency. The principal combined fund drive agency shall pay the amount collected for the employee designated beneficiary agency less the amount necessary to reimburse the principal combined fund drive agency for fundraising and administrative expenses. The fee charged for fundraising and administrative cost reimbursement shall be determined by the State Board of Control, published in campaign literature and made available to the employee during the solicitation process

Nothing contained in this section shall preclude a principal fund drive agency from giving a percentage of the undesignated funds to charities which are not members of the agency handling the principal drive, or honoring an employee's designated deduction to any charitable organization.

CHAPTER 871

An act to amend Sections 7, 14926, 55435.5, 55487, 55521, 55522, 55523, 55528, 55610, 55861, 55863, 55877, 55902, 56102, 56104, 56105, 56107, 56133.5, 56161, 56181, 56189, 56191, 56252, 56253, 56301, 56302, 56351, 56381, 56382, 56411, 56443, 56452, 56534, 56535, 56536, 56571, 56574, 56607, 56612, 56617, 56619, 56636, 56704, 56713, 59111, 59142, and 59163 of, to add Sections 55402.3, 55402.5, 55404.5, 55527.5, 55751, 56103.5, 56109.5, 56619.5, and 56632.5 to, and to repeal Section 55409 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 7 of the Food and Agricultural Code is amended to read:

7. (a) Any person in whom the enforcement of any provision of this code is vested shall have the authority, as a public officer, to arrest, without a warrant, another person whenever such officer has reasonable cause to believe that the person to be arrested has, in his presence, violated any provision of this code, the violation of which is declared to be public offense. If such violation is a felony, or if the arresting officer has reasonable cause to believe that the person to be arrested has violated a provision of this code which is declared to be a felony, although no felony has in fact been committed, he may make an arrest although the violation or suspected violation did not occur in his presence.

In any case in which an arrest is made pursuant to this authority for an offense declared to be a misdemeanor or an infraction, the arresting officer may, instead of taking the person arrested before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code, unless the arrested person demands to be taken before a magistrate. The provisions of such chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer, at the time of such arrest, had reasonable cause to believe was lawful No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(c) Any person in whom the enforcement of any provision of this code is vested may serve all processes and notices throughout the state, provided, that county employees authorized to enforce the

provisions of this code are authorized to serve processes and notices only within the boundaries of the county which employs them.

SEC. 2. Section 14926 of the Food and Agricultural Code is amended to read:

14926 "Consumer-buyer" means any person not licensed under this chapter who purchases commercial feed from a manufacturer or distributor of such feed for use in feeding animals.

SEC. 2.5. Section 55402.3 is added to the Food and Agricultural Code, to read:

55402.3. "Cash" means coin or currency of the United States, and does not include a check or money order.

SEC. 3. Section 55402.5 is added to the Food and Agricultural Code, to read:

55402.5 "Cash buying processor" means any person who is engaged in the business of processing or manufacturing any farm product; who obtains from the producer of any farm product, title to, or possession or control of the farm product; and who buys or agrees to buy any farm product, by cash payment of the full agreed price of such product to the producer at the time of obtaining possession or control or at the time of contracting for title to, or possession or control of any farm product.

SEC. 4 Section 55404 5 is added to the Food and Agricultural Code, to read:

55404 5 "Licensee" means any person licensed under the provisions of this chapter as a processor or cash buying processor.

SEC. 5. Section 55409 of the Food and Agricultural Code is repealed

SEC. 6. Section 55435 5 of the Food and Agricultural Code is amended to read:

55435 5. (a) Except with the approval of the director, no person licensed under the provisions of this chapter shall employ any person as an agent, who is or has been responsibly connected with any licensee:

(1) Whose license has been revoked or is currently suspended by the director

(2) Who has been found after notice and an opportunity for hearing to have committed any flagrant or repeated violation of this chapter or Chapter 7 (commencing with Section 56101) of this division. This provision shall not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect.

(3) Who is legally obligated to pay any claim for farm products that arose out of the conduct of a business licensed under this chapter or Chapter 7 (commencing with Section 56101) of this division

(b) The director may approve employment of any person covered under subdivision (a), if the licensee furnishes and maintains a surety bond in form and amount satisfactory to the director but which shall not be less than ten thousand dollars ($10,000), as assurance that such licensee's business will be conducted in accordance with this chapter

and that the licensee will pay all amounts due California producers. The director may approve employment without a surety bond after the expiration of four years from the effective date of the applicable disciplinary order. The director, based on changes in the nature and volume of business conducted by the licensee, may require an increase or authorize a reduction in the amount of the bond but in no case shall the bond be reduced below ten thousand dollars ($10,000). A licensee who is notified by the director to provide a bond in an increased amount shall do so within a reasonable time to be specified by the director, and if the licensee fails to do so, the approval of employment shall automatically terminate. The director may, after 30 days' notice and an opportunity for a hearing, suspend or revoke the license of any licensee who, after the date given in such notice, continues to employ any person in violation of this section.

SEC. 7. Section 55487 of the Food and Agricultural Code is amended to read:

55487. Previous conviction of a felony or previous violation of this chapter may be considered by the director as adverse to a showing of good character, responsibility, or good faith on the part of any applicant, manager, superintendent, director, or officer of an applicant corporation, or on the part of any superintendent, manager, or member of an applicant partnership. The same considerations are applicable to an individual applicant who has previously been in a responsible or managing position with a corporation or partnership which has suffered revocation or suspension of license by reason of violation of this chapter or by reason of violation of Chapter 7 (commencing with Section 56101) of this division.

SEC. 7.3. Section 55521 of the Food and Agricultural Code is amended to read:

55521. A person shall not act as a processor or a cash buying processor unless he has first obtained a license as provided in this chapter or in Section 56574

SEC. 7.5. Section 55522 of the Food and Agricultural Code is amended to read:

55522 Every person, before acting as a processor or a cash buying processor, shall file an application with the director for a license to so act. The application, unless it is an application for a conjunctive processor's license pursuant to Section 56574, shall be accompanied by the application fee which is prescribed by Article 16 (commencing with Section 55861) of this chapter.

SEC. 8. Section 55523 of the Food and Agricultural Code is amended to read:

55523. Each application shall state all of the following:

(a) The full name of the applicant.

(b) If the applicant is a firm, exchange, association, or corporation, the full name of each member of the firm or the names of the officers of the exchange, association, or corporation

(c) The principal business address of the applicant in this state.

(d) The name of every person who is authorized to receive and accept service of summons for the applicant.

(e) In addition to the other requirements of this chapter, each application for a license, except for the renewal of a license or an application for a cash buying processor license, shall include a balance sheet or statement of financial position, which presents fairly the financial condition as of the applicant's most recent yearend. Such financial statement, if not prepared by a public accountant or certified public accountant, shall be on a form prescribed by the director and shall be submitted under penalty of perjury. Any balance sheet submitted which does not provide the information required by the director may be rejected until such information is provided.

(f) If at any time the director has cause or reason to believe that any licensee is in an unsound financial condition so as to impair his ability to pay farm products creditors in full for farm products received or handled, or for any reason deems it advisable, he may require such licensee to file with him a balance sheet or statement of financial position which presents fairly the financial condition of such licensee. Such financial statement, if not prepared by a public accountant or certified public accountant, shall be on a form prescribed by the director and shall be submitted under penalty of perjury Any balance sheet submitted which does not provide the information required by the director may be rejected until such information is provided.

(g) Failure to file a financial statement as required by this section is a violation of this chapter

(h) Any financial statement submitted to the director in support of a license application made pursuant to the provisions of this chapter is confidential and shall not be divulged except at a hearing before the director or under subpoena, if necessary for the proper determination of any court proceedings.

SEC 9 Section 55527.5 is added to the Food and Agricultural Code, to read·

55527 5. Any person who is adjudicated liable for payment of a claim for farm products which arose out of the conduct of a business licensed under this chapter or Chapter 7 (commencing with Section 56101), and who has not made full settlement with all producer-creditors, shall not be licensed by the director as a principal for four years from the date of such adjudication.

SEC. 9 5. Section 55528 of the Food and Agricultural Code is amended to read·

55528 The director may refuse to grant any license or the renewal of any license in any of the following cases:

(a) He is satisfied, after hearing as provided in this chapter, that the applicant has violated any provision of this chapter.

(b) He determines, in the manner which is described in this chapter, that an applicant has failed to make payment for any farm product within the time which is specified for such payment in a

contract of sale and purchase between the producer and the applicant and in accordance with the terms of the contract.

(c) There has been any previous violation of record of any provision of this chapter by the applicant or by any person that owns any substantial interest in, or that acts in a proprietary capacity in, the business of the applicant or is charged with the management of such business.

SEC. 10. Section 55610 of the Food and Agricultural Code is amended to read:

55610. A processor, in order to prevent loss or economic waste, may resell or redeliver any raw product purchased and received from the producer of the raw product to another processor for the purpose of processing and such act is not an act which requires licensing pursuant to Chapter 7 (commencing with Section 56101) of this division. The processor who resells or redelivers any raw product remains liable to the producer for the full value of the raw product

SEC. 11. Section 55751 is added to the Food and Agricultural Code, to read·

55751. Any verified complaint filed with the director pursuant to this chapter shall be filed within one year after default by the licensee.

SEC. 12. Section 55861 of the Food and Agricultural Code is amended to read:

55861. (a) Except as otherwise provided in this article or in Section 56574, each applicant for a license shall pay to the director a fee in accordance with the schedule in subdivision (b) of this section, except that an agent shall pay thirty-five dollars ($35) for each license period of the principal.

(b) The amount of the fee due each year from the applicant shall be determined by the annual dollar volume of business based on the value of the farm products that is returned to the grower, as follows

(1) For a dollar volume of under twenty thousand dollars ($20,000), the fee shall be twenty-five dollars ($25).

(2) For a dollar volume of twenty thousand dollars ($20,000), and over, but under fifty thousand dollars ($50,000), the fee shall be two hundred dollars ($200).

(3) For a dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be three hundred dollars ($300).

(4) For a dollar volume of two million dollars ($2,000,000) and over, the fee shall be four hundred dollars ($400).

SEC. 13. Section 55863 of the Food and Agricultural Code is amended to read:

55863. Any person that has applied for and obtained a license pursuant to the provisions of this chapter may apply for and secure a license under Chapter 7 (commencing with Section 56101) of this division by filing an application which is accompanied by a fee determined by the dollar volume of business based on the value of the farm products that is returned to the grower or licensee, as

follows:

(a) For a dollar volume of under fifty thousand dollars ($50,000), the fee shall be fifty dollars ($50).

(b) For a dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be seventy-five dollars ($75).

(c) For a dollar volume of two million dollars ($2,000,000) and over, the fee shall be one hundred dollars ($100).

This license shall be known as a "conjunctive license."

SEC. 14. Section 55877 of the Food and Agricultural Code is amended to read:

55877. It is a violation of this chapter if the licensee licensed as a cash buying processor has bought or otherwise taken title to, or possession of, any farm product from the producer of the farm product, except by cash payment to the producer, at the time of obtaining such possession or control, of the full agreed price.

SEC. 15. Section 55902 of the Food and Agricultural Code is amended to read:

55902. It is a misdemeanor for any person subject to this chapter to act as a processor or agent without a license, or, if licensed as a cash buying processor, to buy or otherwise take title to or possession of any farm product from the producer of such product, except by cash payment to the producer, at the time of obtaining such possession or control, of the full agreed price.

SEC. 16. Section 56102 of the Food and Agricultural Code is amended to read:

56102. "Agent" means any person who on behalf of any licensee receives on consignment, contracts for, or solicits for sale on commission, any farm product from a licensee or producer of such product, or who negotiates the consignment or purchase of any farm product on behalf of any licensee.

SEC. 16.5. Section 56103.5 is added to the Food and Agricultural Code, to read:

56103.5. "Cash" means coin or currency of the United States, and does not include a check or money order.

SEC. 17. Section 56104 of the Food and Agricultural Code is amended to read:

56104. "Cash buyer" means any person who obtains title to, possession or control of, or buys or agrees to buy any farm product from a licensee or a producer by paying to the seller the full agreed price in cash at the time of obtaining possession or control, or at the time of contracting for title to, or possession or control of any farm product.

SEC. 18. Section 56105 of the Food and Agricultural Code is amended to read:

56105. "Commission merchant" means any person, as follows:

(a) Who receives on consignment or solicits any farm product from a licensee or producer of the product.

(b) Who accepts any farm product in trust from a licensee or the

producer of the product for purposes of sale.

(c) Who sells any farm product on commission.

(d) Who handles any farm product in any way for the account of or as an agent of the consignor of the product. Any person who accepts a farm product from a licensee or the producer of such product for the purpose of sale or resale is a commission merchant, unless the person has bought, or agreed to buy, the farm product by a contract which designates the price to be paid to the seller

SEC. 19. Section 56107 of the Food and Agricultural Code is amended to read.

56107. "Dealer" means any person who obtains title to, or possession, control, or delivery of, any farm product from a licensee or producer at a designated price for the purpose of resale, or who buys or agrees to buy any farm product from a licensee or the producer of the farm product at a designated price

SEC. 20. Section 56109.5 is added to the Food and Agricultural Code, to read:

56109.5 "Licensee" means any person licensed under this chapter as a broker, cash buyer, commission merchant, or dealer

SEC. 21. Section 56133.5 of the Food and Agricultural Code is amended to read

56133.5 (a) Except with the approval of the director, no person licensed under the provisions of this chapter shall employ any person as an agent, who is or has been responsibly connected with any licensee:

(1) Whose license has been revoked or is currently suspended by the director

(2) Who has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of this chapter or Chapter 6 (commencing with Section 55401). This provision will not apply to any case in which the license of the person found to have committed such violation was suspended and the suspension period has expired or is not in effect

(3) Who is legally obligated to pay any claim for farm products that arose out of the conduct of a business licensed under this chapter or Chapter 6 (commencing with Section 55401).

(b) The director may approve employment of any person covered by subdivision (a) if the licensee furnishes and maintains a surety bond in form and amount satisfactory to the director, but which shall not be less than ten thousand dollars ($10,000), as assurance that such licensee's business will be conducted in accordance with this chapter and that the licensee will pay all amounts due farm products creditors. The director may approve employment without a surety bond after the expiration of four years from the effective date of the applicable disciplinary order The director, based on changes in the nature and volume of business conducted by the licensee, may require an increase or authorize a reduction in the amount of the bond, but in no case shall the bond be reduced below ten thousand dollars ($10,000) A licensee who is notified by the director to provide

a bond in an increased amount shall do so within a reasonable time to be specified by the director. If the licensee fails to do so, the approval of employment shall automatically terminate. The director may, after 30 days' notice and an opportunity for a hearing, suspend or revoke the license of any licensee who, after the date given in such notice, continues to employ any person in violation of this section.

SEC. 22. Section 56161 of the Food and Agricultural Code is amended to read:

56161. This chapter does not apply to or include any of the following:

(a) Any nonprofit cooperative association organized and operating pursuant to Chapter 1 (commencing with Section 54001), any nonprofit cooperative association organized and operating pursuant to any similar law of any other state, the District of Columbia, or the United States, or the agents of such organizations, except as to the activities of such organizations or agents which involve the handling of or dealing in any farm product of a nonmember of such organization.

(b) Any person or exchange that buys, receives, or otherwise handles any farm product as a processor, as defined in Section 55407.

(c) Any retail merchant who has a fixed or established place of business in this state. This exemption does not, however, apply to retail merchants who are also engaged in the business of selling at wholesale any farm product purchased from a licensee or producer. Nor does it apply to any transaction wherein possession of any farm product is obtained from a licensee or producer, and the farm product is sold to another person without being handled in the regular course of a retail business which is conducted at a fixed and established place.

(d) Any person who buys any farm product for his own use or consumption.

(e) Any person licensed as a distributor or handler under Chapter 2 (commencing with Section 61801) of Part 3 of Division 21 who purchases farm products from a dealer, broker, or commission merchant. However, this chapter applies to any such licensed person who purchases farm products from a producer.

SEC. 23. Section 56181 of the Food and Agricultural Code is amended to read:

56181. Except as otherwise provided in Section 55610, any person engaged in the business of buying, receiving on consignment, soliciting for sale on commission, or negotiating the sale of farm products from a licensee or producer for resale shall be licensed as provided in this chapter.

SEC. 24. Section 56189 of the Food and Agricultural Code is amended to read:

56189. Any person who is adjudicated liable for payment of a claim for farm products that arose out of the conduct of a business licensed under this chapter or Chapter 6 (commencing with Section 55401), and who has not made full settlement with all

producer-creditors, shall not be licensed by the director as a principal for four years from the date of such adjudication.

SEC. 25. Section 56191 of the Food and Agricultural Code is amended to read:

56191. The director may also refuse to grant any license or the renewal of any license in any of the following cases:

(a) The director is satisfied, after a hearing as provided in this chapter, that the applicant has violated any provision of this chapter

(b) The director determines that the applicant or any person connected with the applicant has violated any provision of this chapter or Chapter 6 (commencing with Section 55401).

(c) The director is satisfied, after a hearing that the applicant has become insolvent and is thereby unable to pay farm products creditors with whom the applicant has contracts for the purchase of any farm product or for the handling of any farm product on consignment.

SEC. 26. Section 56252 of the Food and Agricultural Code is amended to read·

56252. In addition to the other requirements of this chapter, each application for a license, except for the renewal thereof, or an application for a cash buyer's license, shall include a balance sheet or statement of financial position which presents fairly the financial condition as of the applicant's most recent yearend Such financial statement, if not prepared by a public accountant or certified public accountant, shall be on a form prescribed by the director and shall be submitted under penalty of perjury. Any balance sheet submitted which does not provide the information required by the director may be rejected until such information is provided.

SEC. 27 Section 56253 of the Food and Agricultural Code is amended to read:

56253. If at any time the director has cause or reason to believe that any licensee is in an unsound financial condition so as to impair his ability to pay farm products creditors in full for farm products received or handled, the director may require such licensee to file a balance sheet or statement of financial position which presents fairly the financial condition of such licensee. Such financial statement, if not prepared by a public accountant or certified public accountant, shall be on a form prescribed by the director and shall be submitted under penalty of perjury. Any balance sheet submitted which does not provide the information required by the director shall not meet the requirements of this section. Failure of a licensee to file a financial statement pursuant to this section shall be sufficient grounds for license revocation

SEC. 28 Section 56301 of the Food and Agricultural Code is amended to read:

56301. Every licensee operating as a dealer who purchases any farm product from the producer of the farm product or from any licensee for the purpose of resale, shall promptly make and keep a correct record which shows in detail all of the following·

(a) The name and address of the producer or licensee.
(b) The date received.
(c) The price to be paid.
(d) An itemized statement of any charges paid by the dealer for the account of the seller.

SEC. 29. Section 56302 of the Food and Agricultural Code is amended to read:

56302. Every dealer shall pay for any farm product purchased by him at the time and in the manner specified in the contract with the producer or licensee. If no time for payment is set by such contract or made at the time of the delivery, the dealer shall pay for the farm product within 30 days from the delivery or taking possession of such farm product.

SEC. 30. 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 another licensee or 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 or other licensee, unless the licensee has secured and is in possession of a certificate issued by a county agricultural commissioner, 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. The certificate shall state 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.

SEC. 31 Section 56381 of the Food and Agricultural Code is amended to read·

56381. The director on his own motion may, or on a verified complaint shall, make examinations and audits of the books and records of any licensee pertaining to the solvency of such licensee, or to the purchase or handling of and accounting for any farm product purchased or received on consignment from another licensee or the producer, or handled as a brokerage transaction. The

director may examine and audit all pertinent books, records, weight certificates, receipts, ledgers, journals, papers, contracts, bank statements, canceled checks, and other documents of the licensee which show or tend to show facts regarding the financial condition and the number and status of accounts of growers and others who are doing business with such licensee.

SEC. 32 Section 56382 of the Food and Agricultural Code is amended to read:

56382. If the examination discloses evidence of any violation of this chapter, the director may issue a complaint which is directed against the licensee, either on behalf of the director or on behalf of other licensees or producers who are affected by such violation, together with necessary process for the enforcement of this chapter

SEC. 33. Section 56411 of the Food and Agricultural Code is amended to read·

56411. For the purpose of enforcing the provisions of this chapter, the director may receive verified complaints from producers or licensees against any licensee or any person who acts or attempts to act as a licensee. Upon receipt of any verified complaint, the director may make any and all necessary investigations relative to the complaint.

SEC. 34. Section 56443 of the Food and Agricultural Code is amended to read:

56443 If a farm products consignor or seller of any farm product fails to obtain settlement satisfactory to him in any transaction after having notified the consignee or buyer, a verified complaint may be filed with the director who shall notify the person against whom the complaint has been filed and undertake to effect a settlement. If the director fails to effect a settlement, the director shall call a hearing as provided for in this article

SEC. 35 Section 56452 of the Food and Agricultural Code is amended to read·

56452. If a licensee fails to pay farm products creditors for any farm product which is received on consignment from such creditors, or fails to pay farm products creditors for any farm product purchased from such creditors, the director shall ascertain the names and addresses of all farm products creditors of such licensee together with the amounts due and owing to them by such licensee, and shall request all such farm products creditors to file a verified statement of their respective claims with the director Such request shall be addressed to each known farm products creditor at the last known address thereof

SEC 36. Section 56534 of the Food and Agricultural Code is amended to read·

56534 The director, after a hearing, may suspend or revoke any license if satisfied that the licensee has become insolvent and is unable to pay farm products creditors with whom the licensee has contracts for the purchase of any farm product, or for the handling of any farm product on consignment

SEC. 37. Section 56535 of the Food and Agricultural Code is amended to read:

56535. If the director is satisfied that to permit the licensee to continue to purchase or receive shipments or deliveries of any farm product would be likely to cause serious and irreparable loss to farm products creditors, or to producers or licensees with whom the licensee has purchase contracts, the director may shorten the time which is provided for a hearing upon an order to show cause why the license of the licensee should not be suspended or revoked.

SEC. 38. Section 56536 of the Food and Agricultural Code is amended to read:

56536. The time of notice of such hearing shall in no event be less than 24 hours. The director shall within that period call a hearing at which the licensee proceeded against shall be ordered to show cause why the license should not be suspended, revoked, or continued under such conditions and provisions, if any, as the director may consider just, proper, and for the protection of the best interests of the farm products creditors who are involved.

SEC. 39. Section 56571 of the Food and Agricultural Code is amended to read:

56571. (a) Except as otherwise provided in this article or Section 55863, each applicant for a license shall pay to the director a fee in accordance with the schedule in subdivision (b), except that an agent shall pay thirty-five dollars ($35) for each license period of the principal

(b) The amount of the fee due each year shall be determined by the annual dollar volume of business based on farm product value returned to the grower or licensee, as follows:

(1) For a dollar volume of under twenty thousand dollars ($20,000), the fee shall be twenty-five dollars ($25).

(2) For a dollar volume of twenty thousand dollars ($20,000) and over, but under fifty thousand dollars ($50,000), the fee shall be two hundred dollars ($200).

(3) For a dollar volume of fifty thousand dollars ($50,000) and over, but less than two million dollars ($2,000,000), the fee shall be three hundred dollars ($300).

(4) For a dollar volume of two million dollars ($2,000,000) and over, the fee shall be four hundred dollars ($400).

SEC. 40. Section 56574 of the Food and Agricultural Code is amended to read:

56574. Any person who has obtained a license pursuant to the provisions of this chapter may secure a license pursuant to Chapter 6 (commencing with Section 55401) by filing an application accompanied by a fee determined by the dollar volume of business based on farm product value returned to the grower, as follows:

(a) For a dollar volume of under fifty thousand dollars ($50,000), the fee shall be fifty dollars ($50).

(b) For a dollar volume of fifty thousand dollars ($50,000), and over, but less than two million dollars ($2,000,000), the fee shall be

seventy-five dollars ($75).

(c) For a dollar volume of two million dollars ($2,000,000) and over, the fee shall be one hundred dollars ($100).

This license shall be known as a "conjunctive license."

SEC. 41. Section 56607 of the Food and Agricultural Code is amended to read:

56607. It is a violation of this chapter if the applicant or licensee has made any fictitious sale or has been guilty of collusion to defraud a producer or another licensee.

SEC. 42. Section 56612 of the Food and Agricultural Code is amended to read:

56612. It is a violation of this chapter if the licensee:

(a) Has rejected without reasonable cause or has failed or refused to accept without reasonable cause, any farm product which the licensee has bought or contracted to buy from another licensee or a producer.

(b) Has failed or refused without reasonable cause to provide boxes or other containers, or hauling, harvesting, or any other service which is contracted to be done by the licensee in connection with the acceptance, harvesting, or handling of such farm product.

(c) Has used any device to avoid acceptance or unreasonably defer acceptance of such farm product.

SEC. 43. Section 56617 of the Food and Agricultural Code is amended to read:

56617. It is a violation of this chapter if the licensee without reasonable cause has failed or refused to execute or carry out a lawful contract with a producer or another licensee.

SEC. 44. Section 56619 of the Food and Agricultural Code is amended to read:

56619. It is a violation of this chapter if a dealer has obtained title to or possession, control, or delivery of any farm product from another licensee or a producer of the farm product without having executed a contract of purchase and sale, or a contract agreeing to purchase the farm product at a designated price to be paid by the dealer.

SEC. 45. Section 56619.5 is added to the Food and Agricultural Code, to read:

56619.5. It is a violation of this chapter for a person licensed as a cash buyer to buy or otherwise take title to or possession of any farm product from a licensee or a producer of such product, except by cash payment of the full agreed price to the licensee or producer at the time of obtaining such possession or control.

SEC. 46. Section 56632.5 is added to the Food and Agricultural Code, to read:

56632.5. It is a misdemeanor for any person licensed as a cash buyer to buy or otherwise take title to, or possession of, any farm product from a licensee or a producer of such product, except by cash payment of the full agreed price to the licensee or producer at the time of obtaining possession or control.

SEC. 47. Section 56636 of the Food and Agricultural Code is amended to read.

56636. It is a misdemeanor for any person to make any fictitious sale or be guilty of collusion to defraud a producer or licensee.

SEC. 48. Section 56704 of the Food and Agricultural Code is amended to read:

56704. The money deposited in the product fund shall only be used to pay for farm products grown or produced within this state, which have not been otherwise paid for. Any moneys remaining in the products fund after all the claims have been settled, discharged, or paid in any year shall be credited to the funds to be used in any other year, and the director, in view of this, shall adjust the fees provided for under Section 56703 in accordance with the provisions of that section.

SEC. 49. Section 56713 of the Food and Agricultural Code is amended to read:

56713. In the event any moneys are expended from the products fund on behalf of any licensee, such licensee shall not be licensed in this state for a period of four years from the date such payment is made, so long as the licensee remains legally obligated to pay any claim for farm products made pursuant to Chapter 6 (commencing with Section 55401) or Chapter 7 (commencing with Section 56101), or unless the amount of money expended on the licensee's behalf has been repaid to the products fund and the balance, if any, due creditors plus a penalty assessment of 7 percent per annum from the date such moneys were expended from the products fund or due the creditor have been paid. In case the licensee is a corporation, this section shall apply with respect to any officer, member of the board of directors, or any person employed by such corporation in a managerial position, or any person who owns more than 25 percent of the stock of such corporation.

SEC. 50. Section 59111 of the Food and Agricultural Code is amended to read:

59111. Upon the issuance of any order which makes effective a marketing order or marketing agreement, or any suspension, amendment, or termination of a marketing order or marketing agreement, a notice of the issuance shall be posted on a public bulletin board which the director shall maintain in his office. A marketing order or marketing agreement, or any suspension, amendment, or termination of it, shall not become effective until five days after the date of such posting. The director shall also mail a copy of the notice to every person that is directly affected by the terms of such marketing order or marketing agreement, suspension, amendment, or termination, whose name and address is on file in the office of the director, and to every person that files in the office of the director a written request for such notice.

This section does not apply to the termination of any marketing order or marketing agreement under Section 59087.

SEC. 51. Section 59142 of the Food and Agricultural Code is

amended to read:

59142. The provisions of Article 16 (commencing with Section 59111) of this chapter relative to posting and time of taking effect are applicable to any general rule and regulation which is established pursuant to this article and applicable to marketing orders generally. Such notice shall be mailed to the advisory board for each marketing order or marketing agreement which is in active operation.

SEC. 52. Section 59163 of the Food and Agricultural Code is amended to read:

59163. The provisions of Article 16 (commencing with Section 59111) of this chapter relative to posting, mailing of notice, and time of taking effect are applicable to any such administrative rules and regulations.

SEC. 53. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 872

An act to add Sections 12300.1, 12302, 12303 and 29462 to the Elections Code, relating to elections.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 12300.1 is added to the Elections Code, to read:

12300.1. (a) As used in this article, "candidate" means an individual listed on the ballot, or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination or for election to any elective state or local office, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or makes an expenditure with a view to bringing about his or her nomination or election to any elective state or local office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made. The term "candidate" includes any officeholder who is subject to a recall election.

(b) As used in this article, "committee" means any person or combination of persons who, directly or indirectly, receive

contributions or make expenditures or contributions for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates, or the passage, or defeat of any measure, and who is required to file campaign reports or statements under the provisions of Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code.

SEC. 2. Section 12302 is added to the Elections Code, to read:

12302. It is unlawful for any person who solicits funds for the purpose of supporting or promoting any candidates or committees to include in any part of its name the name of that candidate or committee unless that person shall have previously obtained the authorization of the candidate or committee or the candidate's or committee's designated agent to use the candidate's or committee's name in the name of that person.

Authorization by a candidate or committee shall not be construed as rendering the person soliciting funds a controlled committee as defined by Section 82016 of the Government Code.

SEC. 3. Section 12303 is added to the Elections Code, to read:

12303. Any person who solicits or receives contributions on behalf of any candidate or committee for the purported and exclusive use of that committee or the candidate's election campaign and who is not authorized by the candidate or committee or the candidate's or committee's designated agent to do so, shall include a notice in any fundraising communication, whether through any broadcasting station, newspaper, magazine, printed literature, direct mailing, or any other type of general public advertising, or through telephone or individual oral fundraising appeal, clearly and conspicuously stating that the person is not authorized by the candidate or committee and that the candidate or committee is not responsible for the actions of that person.

SEC. 4. Section 29462 is added to the Elections Code, to read:

29462. Upon the complaint of the affected candidate or committee, any person who violates Section 12302 or 12303 is guilty of a misdemeanor.

SEC. 7. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253.2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act.

CHAPTER 873

An act to amend Sections 1289, 1297, 1300, and 1305 of, to repeal Sections 1270, 1271, and 1272 of, to repeal Article 9 (commencing with Section 1318) of Chapter 1 of Title 10 of Part 2 of, to add Sections 1268a, 1269d, 1270, 1270.1, 1271, and 13825 to, and to add Article 9 (commencing with Section 1318) and Article 10 (commencing with Section 1320) to Chapter 1 of Title 10 of Part 2 of, the Penal Code, relating to bail.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 1268a is added to the Penal Code, to read:

1268a. (a) In accordance with the provisions of this chapter, a defendant shall be released from custody prior to conviction upon the posting of bail as a matter of right, or the defendant may be released from custody upon his or her own recognizance, except that a defendant charged with an offense punishable with death where the proof is evident or the presumption thereof great shall not be released from custody. The finding of an indictment does not add to the strength of the proof or the presumption to be drawn therefrom. A defendant arrested for a misdemeanor may be released from custody upon conditional release or upon executing an appearance bond.

(b) A defendant who has been arrested for a misdemeanor shall, as a matter of right, prior to arraignment, be released from custody upon his or her compliance with the provisions of Section 1269d.

SEC. 2. Section 1269d is added to the Penal Code, to read:

1269d. (a) (1) If a defendant is arrested for a misdemeanor, he or she shall be released from custody upon deposit of a sum of money which is 10 percent of the amount of bail which has been fixed pursuant to Section 1269b and upon execution of a release agreement and an appearance bond as set forth in this section.

(2) Any person who has the authority to approve and accept the full amount of bail as provided for in Section 1269b shall also have the authority to approve and accept 10 percent of the amount of bail pursuant to this section and to issue and sign an order for the release of the defendant, and to set the time and place for the appearance of the defendant before the appropriate court and give notice thereof. At the time the deposit is made, the defendant shall execute a release agreement containing the conditions set forth in Section 1318 and shall execute an appearance bond whereby the defendant promises that should he or she willfully fail to appear before any court or magistrate as required, the defendant shall pay the treasurer of the county in which the defendant was ordered to appear the full amount of the bail set in the case.

(b) Upon depositing the sum and executing the release agreement and the appearance bond as set forth in subdivision (a), the defendant shall be discharged from custody as to the offense or offenses for which the deposit is posted.

(c) If a defendant is charged with a misdemeanor, the court or magistrate in addition to or in lieu of any other methods of release authorized pursuant to this chapter, other than a release upon own recognizance, may require the defendant to agree to any or all of the following conditions when the defendant is personally before the court and the court finds that the imposition of a condition or conditions is necessary to assure the defendant's appearance in court:

(1) Require the defendant to report at reasonable intervals to a person designated by the court, who shall inform the court if the defendant does not report as ordered.

(2) Require the defendant to notify the court if he or she changes his or her place of residence.

(3) Require the defendant to secure the permission of the court before leaving the state.

(4) Require the defendant to submit the name and address of his or her employer, or any change thereof, to the court.

(d) When a defendant has deposited a sum of money with the clerk of the court as required under subdivision (a), and has properly made all appearances as required by the court and thereafter is released from any further obligation to appear before any court having jurisdiction over the case, the clerk of the court shall retain and deposit in the county general fund 10 percent of the deposit or ten dollars ($10), whichever is greater, and shall return the remainder of the deposit to the defendant.

(e) If a defendant who is released under the provisions of this section fails to appear as required, the court before which the defendant was ordered to appear shall forfeit the deposit posted. If the amount of the deposit exceeds one hundred dollars ($100), notice of such order of forfeiture shall be mailed forthwith by the clerk of the court to the last known address of the defendant. If the defendant does not appear and surrender to the court having jurisdiction within 90 days of the date of the forfeiture or within such period satisfy to the court that appearance and surrender by the defendant is impossible and without the fault of the defendant, the court may enter judgment for the full amount of the bail previously established at the time of release, and shall send notice of the entry of such judgment to the last known address of the defendant. The deposit shall be applied to the payment of costs. If any amount of such deposit remains after payment of costs, it shall be applied to payment of the judgment and transferred to the treasury of the county wherein the deposit was taken The balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

(f) This section shall not apply to any case where the bail set is one hundred fifty dollars ($150) or less Any defendant for whom there

is an outstanding warrant issued under Section 853.8, 979, 1195, or 1318.8 shall not be eligible to post a 10 percent deposit under subdivision (a) except upon order of a court or magistrate.

(g) The Judicial Council shall prescribe a uniform statewide release agreement form, a uniform statewide appearance bond form, and a uniform deposit receipt form.

SEC. 3. Section 1270 of the Penal Code is repealed.

SEC. 4. Section 1270 is added to the Penal Code, to read:

1270. (a) Any person, who has been arrested for or charged with an offense other than a capital offense may be released on his or her own recognizance by a court or magistrate who could release a defendant from custody upon the defendant giving bail, including a defendant arrested upon an out-of-county warrant, provided that a defendant who is in custody and is arraigned on a complaint alleging an offense which is a misdemeanor, and a defendant who appears before a court or magistrate upon an out-of-county warrant arising out of a case involving only misdemeanors, shall be entitled to an own recognizance release unless the court makes a finding upon the record that an own recognizance release will not reasonably assure the appearance of the defendant as required. In such event the court shall then set bail and specify the conditions, if any, whereunder the defendant shall be released.

(b) The provisions of Article 9 (commencing with Section 1318) shall apply to any person who is released pursuant to this section.

SEC. 5. Section 1270.1 is added to the Penal Code, to read:

1270.1. Any person who has been arrested for or charged with a misdemeanor may be released by a court or magistrate upon execution of an appearance bond.

SEC. 6. Section 1271 of the Penal Code is repealed.

SEC. 7. Section 1271 is added to the Penal Code, to read:

1271. When a person is detained in custody on a criminal charge prior to conviction for want of bail, such person is entitled to an automatic review of the order fixing the amount of bail by the judge or magistrate having jurisdiction of the offense. Such review shall be held not later than five days from the time of the original order fixing the amount of bail on the original accusatory pleading. The defendant may waive such review.

SEC. 8. Section 1289 of the Penal Code is amended to read:

1289. (a) After a defendant has been admitted to bail upon an indictment or information, the court in which the charge is pending may, upon good cause shown, either increase or reduce the amount of bail. If the amount is increased, the court may order the defendant to be committed to actual custody, unless he gives bail in such increased amount. If application is made by the defendant for a reduction of the amount, notice of the application shall be served upon the district attorney.

(b) After a defendant has been released pursuant to this chapter, the court in which the charge is pending may require the defendant either to give bail in an amount specified by it or to meet any other

condition as elsewhere provided in this chapter upon a finding made in open court that the defendant has failed to appear or has violated any condition of the order releasing him or her, or that there has been a change of circumstances which increases the risk of failure to appear, or that additional facts have been presented which were not shown at the time of the original order releasing the defendant. The court may order that the defendant be committed to actual custody unless the defendant gives such bail or meets such other conditions.

SEC. 9. Section 1297 of the Penal Code is amended to read:

1297. When money has been deposited, a receipt shall be issued in the name of the depositor. If the money remains on deposit at the time of a judgment for the payment of a fine, the clerk shall, under the direction of the court, if the defendant is the depositor, consents to the use of the money in payment of the fine, and has not made a prior assignment of the money, apply the money in satisfaction thereof, and after satisfying the fine and costs, shall refund the surplus, if any, to the defendant. If the person to whom the receipt for the deposit was issued was not the defendant, the deposit after judgment shall be returned to him within 10 days after he claims it by submitting the receipt, and, if a claim is not made within 10 days of the exoneration of bail, the clerk shall immediately notify the depositor of the exoneration of bail.

SEC. 10. Section 1300 of the Penal Code is amended to read:

1300. (a) At any time before the forfeiture of the undertaking, or deposit by a third person, the bail or the depositor may surrender the defendant in their exoneration, or the defendant may personally surrender, to the officer to whose custody the defendant was committed at the time of giving bail, in the following manner:

(1) A certified copy of the undertaking of the bail, or a certified copy of the certificate of deposit where a deposit is made, must be delivered to the officer who must detain the defendant in custody thereon as upon a commitment, and by a certificate in writing acknowledge the surrender.

(2) The bail or depositor, upon surrendering the defendant, shall make reasonable effort to give notice to the defendant's last attorney of record, if any, of such surrender.

(3) The officer to whom the defendant is surrendered shall, within 48 hours of the surrender, bring the defendant before the court in which the defendant is next to appear on the case for which the defendant has been surrendered. The court shall advise the defendant of his or her right to move the court for an order permitting the withdrawal of any previous waiver of time and shall advise the defendant of the authority of the court, as provided in subdivision (b), to order return of the premium paid by the defendant or other person, or any part of it.

(4) Upon the undertaking, or certificate of deposit, and the certificate of the officer, the court in which the action or appeal is pending may, upon notice of five days to the district attorney of the county, with a copy of the undertaking, or certificate of deposit, and

the certificate of the officer, order that the bail or deposit be exonerated. However, if the defendant is otherwise released pursuant to this chapter before the issuance of such an order, the court shall order that the bail or deposit be exonerated without prejudice to the court's authority under subdivision (b). On filing the order and papers used on the application, they are exonerated accordingly.

(b) Notwithstanding subdivision (a), if the court determines that good cause does not exist for the surrender of a defendant who has not failed to appear or has not violated any order of the court, it may, in its discretion, order the bail or the depositor to return to the defendant or other person who has paid the premium or any part of it, all of the money so paid or any part of it.

SEC. 10.5. Section 1305 of the Penal Code is amended to read:

1305. (a) If, without sufficient excuse, the defendant neglects to appear for arraignment or for trial or judgment, or upon any other occasion when his presence in court is lawfully required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered upon its minutes and the undertaking of bail, or the money deposited instead of bail, as the case may be, must thereupon be declared forfeited, and, if the amount of the forfeiture exceeds one hundred dollars ($100), the clerk of the court shall, promptly upon entering the fact of such failure to appear in the minutes, mail notice of the forfeiture to the surety on the bond or depositor of money instead of bond, and shall execute an affidavit of such mailing and place it in the court's file in the case. If the surety is an authorized corporate surety insurer, and if the bond has plainly printed or stamped thereon the address of its principal office in California, such notice shall be mailed to such surety at such address, and mailing to the bail agent or solicitor who posted the bond shall not constitute compliance with this section; the clerk shall at the same time send a copy of such notice to the bail agent or solicitor who posted the bond. If the clerk fails to mail such notice within 30 days after such entry, the surety or depositor shall be released from all obligations under the bond.

But if at any time within 180 days after such entry in the minutes or, if mailing of notice of forfeiture is required, within 180 days after mailing such notice of forfeiture, the defendant and his bail appear, and satisfactorily excuse the defendant's neglect or show to the satisfaction of the court that the absence of the defendant was not with the connivance of the bail, the court shall direct the forfeiture of the undertaking or the deposit to be discharged upon such terms as may be just, and may order the bail reinstated and the defendant released again on the same bond. If at any time within 180 days after such entry in the minutes or mailing as the case may be, the bail should surrender the defendant to the court or to custody, the court shall direct the forfeiture of the undertaking or the deposit to be discharged upon such terms as may be just.

If within 180 days after such entry in the minutes or mailing as the

case may be, it is made to appear to the satisfaction of the court that the defendant is dead or is otherwise permanently unable to appear in court due to illness, insanity, or detention by civil or military authorities, and that the absence of the defendant was not with the connivance of the bail, the court shall direct the forfeiture of the undertaking or the deposit to be discharged upon such terms as may be just If within 180 days after such entry in the minutes or mailing as the case may be, it is made to appear to the satisfaction of the court that the defendant is temporarily disabled by reason of illness, insanity, or detention by civil or military authorities and is therefore unable to appear in court at any time during the remainder of such 180 days, and that the absence of the defendant has not been with the connivance of the bail, then the period of time during which the disability continues shall not be deemed part of such 180 days. Upon a finding by the court that a reasonable period of time is necessary in order to return the defendant to court upon the termination of the disability, then such period of time, as fixed by the court, shall not be deemed part of such 180 days.

Unless waived by the district attorney or other prosecuting attorney, no order discharging the forfeiture of the undertaking or deposit shall be made without opportunity for hearing and the filing of a notice of motion for such order setting forth the basis for relief, with proof of service upon the district attorney or other prosecuting attorney at least 10 days prior to the time set for hearing of the motion and otherwise in compliance with the provisions of Section 1010 of the Code of Civil Procedure. Such notice may be given by the surety insurer, its bail agent, the surety, or depositor of money, any of whom may give such notice and appear either in person or by attorney. Such notice of motion must be filed within 180 days after such entry in the minutes or mailing as the case may be, and must be heard and determined within 30 days after the expiration of such 180 days, unless the court for good cause shown, shall extend the time for hearing and determination.

(b) If, without sufficient excuse, the defendant neglects to appear for arraignment, trial, judgment, or upon any other occasion when his presence in court is lawfully required, or to surrender himself in execution of the judgment, but the court has reason to believe that sufficient excuse may exist for his neglect to appear or surrender himself, the court may continue the case for such period as it deems reasonable to enable the defendant to appear without ordering a forfeiture of bail or issuing a bench warrant.

SEC. 11 Article 9 (commencing with Section 1318) of Chapter 1 of Title 10 of Part 2 of the Penal Code is repealed.

SEC. 12. Article 9 (commencing with Section 1318) is added to Chapter 1 of Title 10 of Part 2 of the Penal Code, to read:

Article 9. Procedure Relating to Release on Own Recognizance

1318 (a) The defendant shall not be released from custody under an own recognizance or pursuant to Section 1269d until the defendant files with the clerk of the court or other person authorized to accept bail a signed release agreement which includes:

(1) The defendant's promise to appear at all times and places, as ordered by the court, magistrate or other person authorized by paragraph (3) of subdivision (a) of Section 1269d to release the defendant and as ordered by any court in which, or any magistrate before whom the charge is subsequently pending.

(2) The defendant's promise not to depart this state without leave of the court.

(3) Agreement by the defendant to waive extradition if the defendant fails to appear as required and is apprehended outside of the State of California.

(4) The acknowledgment of the defendant that he or she has been informed of the consequences and penalties applicable to violation of the conditions of release.

1318 1 A court may, with the concurrence of the board of supervisors, employ an investigative staff for the purpose of recommending whether a defendant should be released on his or her own recognizance, upon an appearance bond or upon agreeing to comply with any or all of the conditions set forth in subdivision (c) of Section 1269d.

The salaries of such staff are a proper charge against the county.

SEC. 13. Article 10 (commencing with Section 1320) is added to Chapter 1 of Title 10 of Part 2 of the Penal Code, to read:

Article 10. Violations

1320. (a) Every person who is charged with the commission of a misdemeanor who is released from custody pursuant to Section 1269d on an appearance bond or on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a misdemeanor It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court

(b) Every person who is charged with the commission of a felony who is released from custody on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony, and upon conviction shall be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison, or in the county jail for not more than one year, or by both such fine and imprisonment. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court

SEC. 14. Section 13825 is added to the Penal Code, to read:

13825. On or after January 1, 1984, and prior to December 31, 1985, in consultation with the State Bar of California and the Judicial Council, the Office of Criminal Justice Planning shall prepare and submit to the Legislature a report summarizing the experience of the public agencies impacted by Assembly Bill No. 2 of the 1979–80 Regular Session of the Legislature. Such report shall include, but not be limited to, information on the failure to appear rates for the different modes of release of criminal defendants authorized by Assembly Bill No. 2, the impact of the bill on jail populations, and the financial impact.

The Office of Criminal Justice Planning is specifically authorized and encouraged to seek the assistance of an organization or organizations which may be able to utilize funding sources other than the state to prepare this report for the Office of Criminal Justice Planning.

SEC. 15. In enacting this act, the Legislature hereby determines and finds that any duties, obligations or responsibilities imposed on local government will not result in any significant increased costs in that courts retain a portion of the deposit posted with them, that the deposits posted with the courts may be placed in interest bearing accounts, that forfeitures accrue to the local government and that there will be cost savings resulting from reduced jail populations. Therefore, as a result of this finding and determination, no appropriation is made by this act, nor is any obligation created thereby under Section 2231 or 2234 of the Revenue and Taxation Code, for the reimbursement of any local agency or school district for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act. Moreover there shall be no claim considered with respect to this act by the State Board of Control pursuant to Section 2250 of the Revenue and Taxation Code for costs incurred in apprehending persons who fail to appear as required by the court, magistrate, or other person authorized to release the defendant. In the event that revenues and cost savings resulting from this act are not sufficient to cover the reasonable costs of administering the act, it is the intent of the Legislature that legislative action be taken to ensure that any such costs not be imposed on local government.

SEC. 16. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 17. This act shall become operative January 1, 1981, and shall remain in effect until December 31, 1985.

CHAPTER 874

An act to amend Section 40522 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 40522 of the Vehicle Code is amended to read:

40522. Whenever a person is arrested for violations specified in Section 40303.5 which meet all of the conditions set forth in subdivision (b) of Section 40610, and the officer issues a notice to appear, the notice shall specify the offense charged and note in a form approved by the Judicial Council that the charge may be dismissed on proof of correction, or include the following statement: "Cited in accordance with 40610(b) V.C." If the arrested person presents, by mail or in person, proof of correction, as prescribed in Section 40616, on or before the date on which he or she promised to appear, the court shall dismiss the violation or violations charged pursuant to Section 40303.5.

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:

Existing law, operative on July 1, 1979, would require law enforcement agencies to issue two citations in cases where certain agencies would prefer to include all offenses in a single citation. This measure will afford local police agencies flexibility in utilizing the notice to correct procedure

---

CHAPTER 875

An act to amend Sections 14010, 14021, 14022, 14023, 14023.5, 14027, 14029.8, 14035, 14041, 14043, 14044, 14044.5, 14045, 14046, 14075, 14083 and 14085 of, and Article 14 (commencing with Section 14125) to Chapter 1 of Part 5 of Division 3 of Title 1 of, to amend the heading of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of, to amend the heading of Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of, to amend the heading of Article 3 (commencing with Section 14020) of Chapter 1 of Part 5 of Division 3 of Title 1 of, and to repeal Sections 14070, 14071, 14072, 14073, 14074, and 14076 of, the Corporations Code, relating to small business development.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. The heading of Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code is amended to read:

PART 5. OFFICE OF SMALL BUSINESS DEVELOPMENT

SEC. 2. The heading of Chapter 1 (commencing with Section 14000) of Part 5 of Division 3 of Title 1 of the Corporations Code is amended to read:

CHAPTER 1. SMALL BUSINESS DEVELOPMENT CORPORATIONS

SEC. 3. Section 14010 of the Corporations Code is amended to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California small business development corporation created pursuant to the provisions of this part.

(b) "Financial institution" means banking organizations including national banking associations and state-chartered commercial banks and trust companies; savings and loan associations; state insurance companies; mutual insurance companies; and other banking, loaning, retirement, and insurance organizations.

(c) "Economically disadvantaged area" means the area or areas within the region of a corporation consisting of those contiguous census tracts within urbanized areas as defined by the most recent federal decennial census, in which 20 percent or more of the families were reported by the most recent federal decennial census to have an annual income of less than the poverty level established by the Bureau of the Census, or comparable areas which because of technical factors, cannot be isolated by census tracts. The definition set forth in this subdivision shall be reviewed periodically and the board shall recommend necessary changes to the Legislature and the Governor

(d) "Area of high youth unemployment and high youth delinquency" shall be defined by the board.

(e) "Region" means an area containing a population of not less than 500,000 and including within its boundaries one or more economically disadvantaged areas, and in which members of a corporation conduct normal business operations.

(f) "Small business" means a business defined as an eligible small business as set forth in Section 121.30-10 of Part 121, Chapter 1, Title 13 of the Code of Federal Regulations, revised as of January 1, 1978,

and including those businesses organized for agricultural purposes.

(g) "Employment incentive loan" means a loan for the purpose of attracting new business to, or expanding an existing business, which over the period of the loan will result in the new or continued employment of at least 15 persons who are either persons residing in economically disadvantaged areas or youths residing in areas of high youth unemployment and high youth delinquency.

(h) "Member" means any organization individual, financial institution, nonprofit organization or other business authorized to operate within this state which undertakes to make resources available to a corporation in accordance with the provisions of this chapter.

(i) "Resources" means monetary contributions, donation of consultants, personnel, facilities, equipment, loan services, and other items or services as defined by the corporation.

(j) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on every loan application pursuant to Article 7.5 (commencing with Section 14066) of this chapter.

(k) "Membership agreement" means an agreement between a corporation and any individual, financial institution, nonprofit organization, or other business under which agreement such individual, financial institution, nonprofit organization, or other business agrees to make available or contribute resources to the corporation in accordance with the provisions of Article 8 (commencing with Section 14075).

(*l*) "Board of directors" means the board of directors of the corporation

(m) "OSBD" means the Office of Small Business Development.

(n) "Board" means the Small Business Development Board.

(o) "Department" means the Department of Economic and Business Development.

(p) "Executive director" means the Executive Director of the Office of Small Business Development.

(q) "UDC" means an urban development corporation.

(r) "RDC" means a rural development corporation.

(s) "Director" means the Director of the Department of Economic and Business Development.

SEC. 4 The heading of Article 3 (commencing with Section 14020) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code is amended to read:

Article 3. The Small Business Development Board

SEC. 5. Section 14021 of the Corporations Code is amended to read·

14021. The board consists of the following membership

Superintendent of Banks;

Director of the Department of Economic and Business

Development;

Director of the Department of Food and Agriculture; Director of the Employment Development Department.

Nine members appointed by the Governor, including:

Two persons residing in economically disadvantaged areas who are actively engaged in providing leadership and assistance for persons residing in these areas; one each from an urban and rural area.

Two persons to be recommended by the financial institutions participating in the program as of January 1 of each year.

Two persons actively engaged in a commercial, agricultural, or industrial business and who are members of a small, agricultural, minority or women's business association; and

One person who is an officer of an urban labor organization.

One person experienced in financial matters or actively engaged in the banking, savings and loan or insurance business.

Two Members of the Legislature, one of whom shall be appointed by the Speaker of the Assembly, and one by the Senate Rules Committee, shall advise with the board insofar as it does not conflict with the duties of the legislators. For purposes of this part, such two Members of the Legislature shall constitute a joint interim legislative committee on the subject of this part and shall have all the powers and duties imposed upon such committees by the Joint Rules of the Senate and Assembly.

Two persons actively involved in the business or agricultural community, one to be appointed by the Speaker of the Assembly, and one by the Senate Rules Committee.

One person from each small business development corporation, who shall be selected by the board of directors or members of each corporation in accordance with its bylaws, each of whom shall serve as nonvoting members of the board.

SEC. 6. Section 14022 of the Corporations Code is amended to read:

14022. The board shall:

(a) Advise the executive director on matters regarding this part.

(b) Adopt regulations for the purposes of this part as proposed by the executive director, including regulations for the supervision and suspension of the corporations created herein.

(c) Select a chairman and a vice chairman of the board from among the members and adopt subsequent bylaws as are required to govern the conduct and operation of the board.

(d) Review the articles of incorporation and any subsequent amendments to the articles of incorporation of all corporations formed under this chapter in the following manner:

(1) Examine the articles to determine whether they contain the provisions required by this chapter and conform with the regulations adopted pursuant to this part.

(2) Determine whether the legislative intent expressed in Section 14002 shall be served by the proposed corporation

(3) Determine if the economically disadvantaged area or areas

the incorporators propose to serve meets the requirements of subdivision (c) of Section 14010.

(4) Determine if the region is sufficient and complete and meets the population requirements of subdivision (e) of Section 14010.

(5) Determine whether the responsibility, character, and general fitness of the incorporators and directors named in the articles are such as to command the confidence of the region and to warrant the belief that the business of the proposed corporation will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter and that they include representatives of the financial and business community, as well as local government and the economically disadvantaged.

(6) Recommend to the executive director the approval or disapproval of the articles and any subsequent amendments to the articles expeditiously.

(e) Review each urban and rural development corporation's four-year written plan of operation, to insure that all areas of responsibilities as required herein are duly addressed and recommend to the executive director acceptance of such.

(f) Recommend to the executive director the appointment of such advisory groups as may be necessary to carry out the powers and duties of the department.

(g) Hold public hearings in order to carry out the objectives of the department in regards to its responsibilites as legislative advocate and ombudsman for the state's small business community.

(h) Solicit nominees and recommend to the governor candidates for the position of executive director.

(i) Issue an annual report critiquing the program, its needs and recommended changes.

SEC. 7. Section 14023 of the Corporations Code is amended to read:

14023. The Governor may appoint, upon the recommendation of the director of the department, the executive director of the office. Such a recommendation must be selected from a list of three candidates submitted by the board The executive director of the office shall receive a salary as shall be fixed by the director of the department with the approval of the Department of Finance. The executive director shall be in charge of the Office of Small Business Development under the direction of the director of the department, consistent with duties as set forth in this part. The executive director may be dismissed by the director of the department after consideration by the board and a recommendation thereof is submitted to the secretary. Finalization of such action is subject to approval by the Secretary of Business and Transportation Agency. Board approval of such action is not required. The executive director shall:

(a) Administer this part.

(b) In accordance with program resources, stimulate the formation of urban and rural development corporations and the use

of branch offices for the purpose of making this program accessible to all disadvantaged areas of the state.

(c) After consideration by the board, approve or disapprove the articles of incorporation and any subsequent amendments to the articles of incorporation expeditiously

(d) Require each small business development corporation to submit a written plan of operation in such form and containing such information as the board may require by regulation or otherwise. Every plan submitted shall provide for conversion to a UDC or RDC within six months

(e) Review reports from the State Banking Department and inform regional corporations as to what corrective action is required.

SEC. 8 Section 14023 5 of the Corporations Code is amended to read.

14023.5. The executive director, following notification to the director, may·

(a) Upon approval by the board, contract for services.

(b) Hold public hearings.

(c) Act as liaison between corporations formed under this part, other state and federal agencies, lenders, and the Legislature.

(d) Process and tabulate on a monthly basis all regional reports.

(e) Attend monthly board meetings.

(f) Attend and participate quarterly at corporation meetings.

(g) Assist corporations in applying for local revenue sharing funds and for federal grant applications, and in obtaining program support from the business community.

(h) Appoint such advisory groups as may be necessary to carry out his powers and duties.

(i) Call upon and reimburse for services any state agency or department for assistance in carrying out the Office of Small Business Development's objectives.

(j) Participate with government or private industry in programs for technical assistance, loans, technology transfer or any other programs related to this part.

(k) Exercise such other powers as may be necessary to carry out the purposes of this part.

SEC. 9 Section 14027 of the Corporations Code is amended to read

14027 The board shall report annually to the Legislature and the Governor indicating steps which have been taken to fulfill the purpose of this part during the preceding calendar year, which report shall describe·

(a) Action taken to encourage the formation of small business development corporations.

(b) Evaluation of corporations formed under this part, including annual financial statements of each corporation

(c) Businesses located and expanded and the number of jobs created through employment-incentive loans made pursuant to this part.

(d) Small businesses established or assisted under this part.

(e) Recommendations for action by the Governor and Legislature to carry out the purposes of this part.

SEC. 10. Section 14029.8 of the Corporations Code is amended to read:

14029.8. The office may establish a program through which the regional corporations may assist small farms and rural and agriculture-related businesses with respect to financing, managerial and technical assistance.

SEC. 11. Section 14035 of the Corporations Code is amended to read:

14035. Every small business development corporation shall adopt bylaws, which shall include provisions governing the election and qualification of directors; the qualification, admission, withdrawal, suspension, and expulsion of members; the rights, powers, privileges, and voting powers of members; the establishment and functions of loan committees of the corporation; the method of levying assessments upon members; and the method of selecting the representative of the corporation on the board.

The bylaws shall provide for removal of officers only by a two-thirds vote of the directors or members of the corporation.

SEC. 11.1 Section 14041 of the Corporations Code is amended to read:

14041 The Small Business Development Loan Guarantee Account is created solely for the purpose of receiving state, federal, or local government money, and other public or private money, for subsequent allocation by the office, with the approval of the Department of Finance, to a regional small business development corporation loan guarantee fund formed pursuant to Section 14045.

SEC 11.2 Section 14043 of the Corporations Code is amended to read:

14043. All money deposited in the Small Business Development Loan Guarantee Account is hereby appropriated, without regard to fiscal years, for the purposes of this chapter The state shall not be liable or obligated in any way beyond the state money which is allocated and deposited in the Small Business Development Loan Guarantee Account from state money which is appropriated for such purposes.

SEC. 12. Section 14044 of the Corporations Code is amended to read:

14044. The funds in the State Small Business Development Loan Guarantee Account shall be paid out to a regional small business development corporation loan guarantee fund by the State Treasurer on warrants drawn by the Controller and requisitioned by the office, pursuant to the purposes of this chapter. The office may transfer funds allocated to the regional small business development loan guarantee fund to accounts, established solely to receive such funds, in lending institutions designated by that corporation The lending institutions so designated shall be approved by the state for

the receipt of state deposits. Interest earned on such accounts in lending institutions may be utilized by the regional corporations pursuant to the purposes of this chapter.

SEC. 12 5. Section 14044.5 of the Corporations Code is amended to read:

14044.5. The office may create in the Small Business Development Loan Guarantee Account a revolving loan guarantee fund, which shall be made available to private consulting agencies under contract with the executive director. The funds contained in such revolving fund so created shall be utilized to provide interim financing for small business enterprises that show a definite potential for success, where funding has been requested, or a loan proposal is in preparation, under Chapter 2 (commencing with Section 14150) of this part. Moneys to establish such revolving fund shall be obtained from sources other than appropriations made by the state, and shall be allocated to contractors under Chapter 2 (commencing with Section 14150) of this part in amounts not to exceed per contractor a maximum dollar amount to be determined by the executive director.

SEC. 13. Section 14045 of the Corporations Code is amended to read:

14045. Every corporation formed under this chapter may establish a regional small business development corporation loan guarantee fund pursuant to regulations adopted by the board. Such fund shall not be subject to any state regulation other than by the board and Department of Finance.

SEC. 14. Section 14046 of the Corporations Code is amended to read:

14046. (a) Except as provided in subdivision (d) of Section 14131 and Section 14083, the purpose of a regional small business development corporation loan guarantee fund shall be to guarantee loans, approved by the regional corporation, which meet the California Small Business Development Corporation Law loan criteria established by the board, policies of the corporation, and provisions of Article 7.5 (commencing with Section 14066) of this chapter. The state shall not be liable or obligated in any way as a result of the allocation of state money to a regional small business development corporation loan guarantee fund beyond the state money which is allocated and deposited in the fund pursuant to this chapter, and which is not otherwise withdrawn by the state pursuant to this chapter.

(b) A summary of all loans to which a state guarantee is attached shall be submitted to the executive director upon completion of the loan agreement

SEC. 15. Section 14070 of the Corporations Code is repealed.

SEC. 16 Section 14071 of the Corporations Code is repealed.

SEC 17 Section 14072 of the Corporations Code is repealed.

SEC 18 Section 14073 of the Corporations Code is repealed.

SEC. 19. Section 14074 of the Corporations Code is repealed.

SEC. 20. Section 14075 of the Corporations Code is amended to read:

14075. In all matters requiring the vote or written consent of the membership, each member shall have one vote, and each member shall have one additional vote for each five thousand dollars ($5,000) of resources actually contributed to the corporation. The value of resources contributed to the corporation shall be the market value of such resources as determined by the board of directors of the corporation; provided, however, that any director of the corporation who is a director, officer, or employee of the member contributing the resources shall not participate in or vote on the determination of the value of such other resources.

An election for members of the board of directors shall be held at intervals not to exceed one year.

SEC. 21. Section 14076 of the Corporations Code is repealed.

SEC. 22. Section 14083 of the Corporations Code is amended to read:

14083. A regional corporation, acting as a sponsor under Section 14082, is authorized to establish a small business investment company (including minority enterprise small business investment companies and business and industrial development companies) with funds committed by its members, in an amount designated by the board of directors of the regional corporation. A regional corporation may also establish such an investment corporation with funds allocated to it by the office The state shall not be liable or obligated in any way beyond the money which has been allocated to the regional corporation.

SEC. 23. Section 14085 of the Corporations Code is amended to read:

14085. The costs incurred by a corporation in the creation and maintenance of a central staff shall be paid to the corporation from state funds allocated to the California Office of Small Business Development for these purposes.

SEC. 24. Article 14 (commencing with Section 14125) is added to Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code, to read:

Article 14. Urban and Rural Development Corporations

14125. (a) Within 30 days after the effective date of this article each of the small business development corporations operating as of June 30, 1979, with urban business lending experience and the small business development corporation operating as of June 30, 1979, with agricultural lending experience shall designate itself as an urban development corporation or a rural development corporation. In the event that such a regional corporation declines to be an urban development corporation or rural development corporation, the board may authorize the establishment of a new regional corporation which will become an urban development corporation or rural

development corporation within six months of such designation. To qualify for consideration as a regional corporation, an organization must have had a minimum of two years' experience in small business finance, management, and technical assistance. Regional corporations operating as of June 30, 1979, which decline to become urban development corporations or rural development corporations shall become ineligible to receive further state funds pursuant to this chapter six months after the decision.

(b) The regional corporations designated as urban development corporations or rural development corporations shall within a reasonable period of time take action to amend their articles of incorporation and bylaws to conform to the provisions of this article.

(c) No later than March 1, 1980, or 30 days after designation as an urban development corporation or rural development corporation whichever is sooner the urban development corporations and rural development corporations shall submit to the board a plan for an urban or rural development program which is independent of state funding pursuant to this chapter within four years The board shall notify the urban development corporation or rural development corporation of its acceptance or rejection for cause of the plan within 60 days of submission. Upon acceptance by the board, the plan shall be the basis for all the urban development corporations' or rural development corporations' funding pursuant to this chapter. Until the plan is accepted by the board the urban development corporation or rural development corporation designee shall continue to operate as a regional corporation as defined in Articles 1 through 13 of Chapter 1.

14126. (a) The urban development corporations and rural development corporations shall be organized as small business development corporations and have all powers, rights and duties of such corporations in addition to those provided in this article. Wherever there is a conflict between provisions of this article and Articles 1 through 13, the provisions of this article shall prevail. Furthermore, loan guarantee funds allocated pursuant to this chapter shall remain in the loan guarantee funds of the respective regional corporations subject to any written agreement between the regional corporation and the office

(b) The UDC's and RDC's shall provide statewide services within designated territories determined by the board, have broad territorial representation, and include on their boards of directors officers of commercial, industrial, or agricultural organizations Representatives from appropriate local, state, or federal governmental departments and agencies shall be given the opportunity to become voting members of the board of directors of the UDCs and RDCs

14127 (a) The urban development corporations and rural development corporations shall report to the Executive Director of the Office of Small Business Development, or his or her designated representative, all statistical and quarterly reports required by this

part, responses to audit reports, budget requirements, and invoices submitted for payment by the state.

14128. (a) The urban development corporation and rural development corporation shall actively pursue a program which will increase their resources in the following areas:

(1) Loan guarantee funds.

(2) Loanable funds.

(3) Management and technical assistance funds.

(4) Program support funds.

(b) The urban development corporation or rural development corporation shall encourage the participation of private firms in the program. Such firms will be encouraged to help the urban development corporation or rural development corporation achieve independence from state funding within a four-year period.

14129. To implement its responsibilities, the urban development corporations and rural development corporations shall undertake a program which shall include, but not be limited to, the following:

(a) Develop and implement a program of outreach to low-resource businesses. The rural development corporations shall give priority to low-resource farmers, rural, and agriculturally related businesses.

(b) Work with other organizations and lenders to locate, identify and assist those unable to obtain credit through conventional sources because of reasons such as low equity, inadequate collateral, unacceptable legal structure (such as a co-op or nonprofit organization), management inadequacies and language problems.

(c) As time permits, assist potential borrowers to prepare loan packages.

(d) To the extent possible, bring all possible financial resources (low interest lenders, BIDCOs, MESBICs, other guarantors, etc.) to bear on borrower's problems.

(e) Provide management and technical assistance which will maximize the probability of loan repayment.

(f) Develop and implement a program for increasing program resources through private sector involvement and nonstate funds.

(g) Develop a program for collecting and liquidating defaulted loans so that the UDC's and RDC's can qualify to become full-service lenders under the Small Business Administration. Rural development corporations shall, in addition, try to qualify for full-service lender status under Farmers Home Administration.

(h) Develop a program which shall enable the urban development corporations and rural development corporations to be independent of state funding within four years.

(i) Become an agent for other lenders and guarantors.

Local governmental entities, local development corporations, business and industrial development corporations, and other financial intermediaries capable of acting as leveraging mechanisms for small business financing may be considered small businesses under this part, provided that the corporation can directly secure its

position with the benefiting small business.

14130 In all their state-funded programs, the urban development corporations and rural development corporations shall, to the extent practicable, be complementary to and not competitive with commercial lenders and other state and federal programs.

14131 (a) The UDC's or RDC's guarantee shall be backed by funds on deposit in the UDC's or RDC's own loan guarantee fund account established pursuant to Articles 5 (commencing with Section 14040) and 6 (commencing with Section 14045).

(b) Loans made under an UDC or RDC guarantee shall be secured by a 100 percent reserve. The guarantee portion may be no more than 90 percent of the required total financing arranged from all lending sources. However, the guaranteed portion may be 100 percent for revolving lines of credit, personal farm operating loans, interim financing where another lender or guarantor will take out the corporation's position within 180 days, loans to UDC's or RDC's, and loans where traditional lenders have turned down the loan because it is too small.

(c) The UDC or RDC shall guarantee loans wherever possible. However, nonstate funds may be used for direct lending provided that UDC or RDC direct loan funds do not constitute more than one-third of the loan

(d) In furtherance of the purposes of this part, up to one-half of the loan guarantee lending funds may be used with the board's approval to establish a Business and Industrial Development Corporation (BIDCO) under Division 15 (commencing with Section 33000) of the Financial Code

(e) The UDC or RDC may assume a negotiated equity position of not more than 5 percent of the current equity in an eligible small business, in lieu of part or all of the fees chargeable to such business or through direct purchase, provided state funds are not used to purchase the equity position. An equity position of 5 percent or less shall not be construed as a conflict of interest in terms of financial and technical assistant participation.

SEC 25. It is the intention of the Legislature to clarify existing law and, specifically, to declare that existing law by this act.

CHAPTER 876

An act to amend Sections 480 and 490 of, and to add Section 7.5 to, the Business and Professions Code, relating to business and professions

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 7.5 is added to the Business and Professions Code, to read:

7.5. A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.

Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

SEC. 2. Section 480 of the Business and Professions Code is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following.

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact

required to be revealed in the application for such license.

SEC. 3. Section 490 of the Business and Professions Code is amended to read:

490. A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued, or the ground of knowingly making a false statement of fact required to be revealed in an application for such license. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

CHAPTER 877

An act to amend Sections 8015, 8045, 8670, and 12002 of, and to add Section 12003 to, the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 8015 of the Fish and Game Code is amended to read:

8015. A fish dealer, canner, or preserver or other person who catches his own fish shall fill out the receipt as required by this article at the time such fish are brought ashore. Every fisherman who sells fish, mollusks, or crustaceans taken from the waters of this state or brought into this state in fresh condition to persons not licensed pursuant to Article 7 (commencing with Section 8040) shall fill out the receipt required by this article and shall be subject to the tax imposed by Section 8045. The department may furnish and require a separate form in such cases.

SEC. 2. Section 8045 of the Fish and Game Code, as amended by Section 17 of Chapter 443 of the Statutes of 1978, is amended to read:

8045. Every person operating under a license issued pursuant to this article, in addition to the license fee, and a fisherman as described in Section 8015 who sells fish, mollusks, or crustaceans in any load or lot of 100 pounds or more to persons not licensed pursuant to Section 8040, shall pay a privilege tax for each pound, or fraction thereof, of fish purchased, received, or taken by him in

accordance with the following schedule·

	Rate per pound
(a) All fish, irrespective of use, except as otherwise specified in this section	$0.0013
(b) Mollusks and crustaceans irrespective of use, excluding squid, crab and abalone	0 0125
(c) Crab and squid, irrespective of use	0.0019
(d) Salmon, except imported salmon offal, based on the weight in the round, irrespective of use	0 0500
(e) Sardines and abalone, irrespective of use	0 0063
(f) The following fish when used for bait or human consumption, except canning	0 0125
(1) Albacore	
(2) Barracuda	
(3) Bluefin	
(4) Broadbill swordfish	
(5) Flying fish	
(6) Frogs	
(7) Giant sea bass	
(8) Halibut	
(9) Saltwater worms	
(10) White sea bass	
(11) Yellowtail	
(g) Anchovy.	0 0006

Provided, however, that when the price paid as stated on the fish receipt required in accordance with Section 8011 is in excess of fifty dollars ($50) per ton, the tax on anchovy shall be $0.0013 per pound.

All fish, except shrimp (Pandalus jordani) and crab (Cancer magister), imported into California from another state or country, and which are for human consumption and are not thereafter canned or cooked by a licensee, shall not be subject to such a privilege tax

Shrimp (Pandalus jordani) and crab (Cancer magister) imported into California from another state or country, irrespective of use, shall not be subject to such privilege tax

This section shall remain in effect only until January 1, 1981, and as of such date is repealed

SEC 3 Section 8045 of the Fish and Game Code, as amended by Section 18 of Chapter 443 of the Statutes of 1978, is amended to read

8045 Every person operating under a license issued pursuant to this article, in addition to license fee, and a fisherman as described in Section 8015 who sells fish, mollusks, or crustaceans in any load or lot of 100 pounds or more to persons not licensed pursuant to Section 8040, shall pay a privilege tax for each pound, or fraction thereof, of fish purchased, received, or taken by him in accordance with the following schedule

	Rate per pound
(a) All fish, irrespective of use, except as otherwise specified in this section	$0.001
(b) Mollusks and crustaceans irrespective of use, excluding squid, crab and abalone	0.01
(c) Crab and squid, irrespective of use	0.0015
(d) Salmon, except imported salmon offal, based on the weight in the round, irrespective of use	0.04
(e) Sardines and abalone, irrespective of use	0.005
(f) The following fish when used for bait or human consumption, except canning	0.01
(1) Albacore	
(2) Barracuda	
(3) Bluefin	
(4) Broadbill swordfish	
(5) Flying fish	
(6) Frogs	
(7) Giant sea bass	
(8) Halibut	
(9) Saltwater worms	
(10) White sea bass	
(11) Yellowtail	
(g) Anchovy	0.0005

Provided, however, that when the price paid as stated on the fish receipt required in accordance with Section 8011 is in excess of fifty dollars ($50) per ton, the tax on anchovy shall be $0.001 per pound.

All fish, except shrimp (Pandalus jordani) and crab (Cancer magister), imported into California from another state or country, and which are for human consumption and are not thereafter canned or cooked by a licensee, shall not be subject to such a privilege tax.

Shrimp (Pandalus jordani) and crab (Cancer magister) imported into California from another state or country, irrespective of use, shall not be subject to such privilege tax.

This section shall become operative on January 1, 1981.

SEC. 4. Section 8670 of the Fish and Game Code is amended to read:

8670. It is unlawful for any person to use, operate, or assist in using or operating any net to take salmon, steelhead, striped bass, sturgeon, or shad for commercial purposes in any of the tidal waters lying upstream from the Carquinez Bridge, or to possess on any boat in these waters any net the use of which is illegal in such waters.

SEC. 5. Section 12002 of the Fish and Game Code is amended to read:

12002. The maximum punishment for a violation constituting a misdemeanor is a fine of five hundred dollars ($500) or

imprisonment in the county jail for six months, or both, except as follows:

(a) The maximum punishment for violation of any of the following provisions is a fine of one thousand dollars ($1,000) or imprisonment in the county jail for one year, or both:

(1) Section 1059.

(2) Section 2052.

(3) Sections 3511, 4700, 5050, and 5515.

(4) Sections 4600 to 4606, inclusive.

(5) Subdivision (a) or (b) of Section 5650.

(6) Section 8670.

(7) Section 10500.

(b) The maximum punishment for violation of any of the following provisions is a fine of two thousand dollars ($2,000) or imprisonment in the county jail for one year, or both:

(1) Section 3005.9.

(2) A violation of commission regulations which is discovered pursuant to Section 3005 91 or 3005 92

SEC. 6. Section 12003 is added to the Fish and Game Code, to read:

12003. Notwithstanding Section 12002, a second or subsequent violation of Section 8670 is punishable by a fine of not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) or imprisonment in the county jail for one year, or by both such fine and imprisonment.

SEC. 7. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to allocate fairly the tax burdens imposed on the commercial fishing industry at the earliest possible time and to insure the collection of necessary revenues to support related activities of the Department of Fish and Game, and in order to deter the unlawful netting of various species of fish that will commence in the Sacramento-San Joaquin Delta in August and September of 1979 and will adversely affect the fishery, it is necessary that this act go into immediate effect.

CHAPTER 878

An act to amend Sections 6201 and 6204 of the Business and Professions Code, relating to attorneys' fees.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 6201 of the Business and Professions Code is amended to read:

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, and the matter shall not be subject to arbitration under this article while the matter is pending in small claims court or after judgment is given in such court. 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 or the arbitration is otherwise terminated. 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

SEC 2. Section 6204 of the Business and Professions Code is amended to read:

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 party seeking review shall be the prevailing party if that party obtains a judgment more favorable than that provided by the arbitration award, and in all other cases the other party shall be the prevailing party. 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. Without regard to consideration of who the prevailing party may be, if a party does not appear at the arbitration hearing in the manner provided by the rules adopted by the board of governors, that party shall not be entitled to attorneys' fees upon judicial review. 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

---

CHAPTER 879

An act to amend Sections 11007, 11371, and 11371.1 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

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

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

(b) As used in Chapter 4 (commencing with Section 11150) of this

division and any provisions of this division specifying penalties for offenses defined in Chapter 4 (commencing with Section 11150), except for those offenses which are punishable under Section 11371 or 11371.1, "controlled substance" means any drug, substance, or immediate precursor which is included in one of the five schedules contained in the Federal Controlled Substances Act (Title II, P.L. 91-513), as such schedules may be revised from time to time to add, delete, or transfer substances from one schedule to another, whether by congressional enactment or by administrative rule of the United States Attorney General adopted pursuant to Section 201 of such act. Whenever reference is made in Chapter 4 (commencing with Section 11150) of this division to a controlled substance classified in a particular schedule, the reference shall be deemed to be to a federal controlled substance classified in the designated federal schedule, as such schedules may be so revised from time to time.

SEC. 2. Section 11371 of the Health and Safety Code is amended to read:

11371. Any person who shall knowingly violate any of the provisions of Section 11153, 11154, 11155, or 11156 with respect to (1) a controlled substance specified in subdivision (b), (c), or (d) of Section 11055, or (2) a controlled substance specified in paragraph (1) or (6) of subdivision (b) of Section 11056, or (3) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars ($20,000), or by both such fine and imprisonment.

SEC. 3. Section 11371.1 of the Health and Safety Code is amended to read:

11371.1. Any person who shall knowingly violate any of the provisions of Section 11173 or 11174 with respect to (1) a controlled substance specified in subdivision (b), (c), or (d) of Section 11055, or (2) a controlled substance specified in paragraph (1) or (6) of subdivision (b) of Section 11056, or (3) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.

CHAPTER 880

An act to add Section 50.9 to the Labor Code, relating to employment.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 50 9 is added to the Labor Code, to read:

50.9. In furtherance of the provisions of Section 50.5, the director, or the Director of Employment Development, may comment on the impact of actions or projects proposed by public agencies on opportunities for profitable employment, and such agencies shall consider such comments in their decisions.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 881

An act to amend Section 10217 of the Elections Code, relating to elections.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 10217 of the Elections Code is amended to read:

10217. The Secretary of State shall conduct a drawing of the letters of the alphabet, the result of which shall be known as a randomized alphabet. The procedure shall be as follows:

(a) Each letter of the alphabet shall be written on a separate slip of paper each of which shall be folded and inserted into a capsule. Each capsule shall be opaque and of uniform weight, color, size, shape, and texture. The capsules shall be placed in a container which shall be shaken vigorously in order to mix them thoroughly. The container then shall be opened and the capsules removed at random one at a time. As each is removed, it shall be opened and the letter on the slip of paper read aloud and written down. The resulting

random order of letters constitutes the randomized alphabet which is to be used in the same manner as the conventional alphabet in determining the order of all candidates in all elections. For example, if two candidates with the surnames Campbell and Carlson are running for the same office, their order on the ballot will depend on the order in which the letters M and R were drawn in the randomized alphabet drawing.

(b) There shall be four such drawings, three in each even-numbered year and one in each odd-numbered year. Each drawing shall be held at 11 a.m. on the date specified in this subdivision. The results of each drawing shall be mailed immediately to each county clerk or other official responsible for conducting an election to which the drawing is applicable who shall use it in determining the order on the ballot of the names of the candidates for office.

The first such drawing shall take place on the 62nd day before the April general law city elections and shall apply to those elections and any other elections held at the same time.

The second shall take place on the 82nd day before the direct primary in June of an even-numbered year and shall apply to all candidates on the ballot in that election.

The third shall take place on the 82nd day before the November general election of an even-numbered year and shall apply to all candidates on the ballot in the November general election.

In the case of the June primary election and the November general election, the Secretary of State shall certify and transmit to each county clerk the order in which the names of federal and state candidates, with the exception of candidates for State Senate and Assembly, shall appear on the ballot. The clerk shall determine the order on the ballot of all other candidates using the appropriate randomized alphabet for that purpose

The fourth drawing shall take place on the 62nd day before the first Tuesday after the first Monday in November of the odd-numbered year and shall apply to all candidates on the ballot in the elections held on that date.

In the event there is to be an election of candidates to a special district, school district, charter city, or other local government body at the same time as one of the four major election dates specified above and the last possible day to file nomination papers for the local election would occur after the date of the drawing for the major election date, the procedure set forth in Section 10217.5 shall apply.

(c) Each randomized alphabet drawing shall be open to the public. At least 10 days prior to a drawing, the Secretary of State shall notify the news media and other interested parties of the date, time, and place of it. The president of each statewide association of local officials with responsibilities for conducting elections shall be invited by the Secretary of State to attend each drawing or send a representative. The state chairman of each qualified political party shall be invited to attend or send a representative in the case of

drawings held to determine the order of candidates on the June primary election ballot, the November general election ballot, or a special election ballot as provided for in subdivision (d) of this section.

(d) In the case of any special election for State Assembly, State Senate, or Representative in Congress, on the first weekday after the close of filing of nomination papers for the office, the Secretary of State shall conduct a public drawing to produce a randomized alphabet in the same manner as provided for in subdivisions (a) and (c) of this section. The resulting randomized alphabet shall be used for determining the order on the ballot of the candidates in both the primary election for the special election and in the special election.

SEC. 2. This act shall become operative only if all of the following occurs: (a) Assembly Bill No. 1047 and Assembly Bill No. 1689 of the 1979–80 Regular Session of the Legislature are both chaptered and become operative on or before January 1, 1980; (b) Assembly Bill No. 1047 adds Section 23302.5 to the Elections Code; and (c) Assembly Bill No 1689 amends Section 6833 of the Elections Code.

CHAPTER 882

An act to amend Section 12701 of the Business and Professions Code, and to add Section 4741.7 to the Health and Safety Code, relating to waste disposal.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 4741.7 is added to the Health and Safety Code, to read:

4741.7. Notwithstanding any of the provisions of this chapter, or of Article 4 (commencing with Section 5470) to the contrary, a district may fix and collect a fee or charge in connection with its refuse transfer or disposal system only pursuant to the provisions of Section 5471, and for such purposes "sanitation or sewerage system" includes a refuse transfer or disposal system. Any entity which collects such a fee or charge for a district pursuant to the provisions of Section 5471 may deduct the administrative costs of such collections from the revenue produced from such fee or charge. The revenues of such charges shall not be used for acquisition, construction, maintenance, or operation of any refuse transfer or disposal system, whether by the district, jointly, by contract, or otherwise, unless such system is open for use by all persons in the district For the purposes of this section, "person" includes an individual, company, public or private corporation, or public entity.

SEC. 2. Section 12701 of the Business and Professions Code is

amended to read:

12701. The following shall not be construed to be public weighmasters:

(a) Retailers weighing or measuring commodities for sale by them in retail stores directly to consumers. The provisions of this exemption shall not apply to persons, firms, or corporations weighing bulk lot commodities on vehicle or hopper scales, or selling such commodities by volume, when the purchaser is not present at the time the weight or measure determination is made.

(b) Producers of agricultural commodities or livestock, weighing commodities produced or purchased by them or by their producer neighbors, when no charge is made for such weighing, or no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based; except that when such weight is to be used by a processor as a basis of payment there shall be no exception to the provisions of Section 12734.

(c) Common carriers issuing waybills or bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Weighers licensed under the provisions of Section 35161 of the Food and Agricultural Code when performing the duties for which they are licensed.

(e) Employees of the department authorized to weigh agricultural products under the provisions of Chapter 8 (commencing with Section 12801) of Division 5, when performing the duties authorized thereby.

(f) Persons who measure the amount of oil, gas, or other fuels for purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(g) Employees of newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(h) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of such establishments

(i) Employees of garbage and refuse disposal districts operating pursuant to Chapter 1.5 (commencing with Section 4170) of Part 2 of Division 5 of the Health and Safety Code and county sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, which are authorized by their respective governing boards to utilize scales in determining charges for the disposal of liquid and solid wastes and employees of operators of solid waste disposal facilities, as defined in Section 66720.1 of the Government Code.

(j) Persons who purchase scrap metal or salvage materials pursuant to a nonprofit cycling program.

(k) Persons operating under a license issued pursuant to Section 11701 of the Food and Agricultural Code.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because self-financing authority is provided in this act to cover 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

CHAPTER 883

An act to amend Section 35795 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 35795 of the Vehicle Code is amended to read:

35795. (a) The Department of Transportation may charge a fee for the issuance of permits pursuant to the provisions of this article.

The fee schedule established by the Department of Transportation pursuant to this section shall be established by a regulation adopted pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not produce a total estimated revenue in excess of the estimated total cost to that department for administering the provisions of this article.

The funds collected by the Department of Transportation pursuant to the provisions of this section shall be deposited in the State Highway Account in the State Transportation Fund.

(b) Local authorities may charge a fee for the issuance of permits pursuant to the provisions of this article, provided the fee schedule established by a local authority pursuant to this section shall be established by ordinance or resolution adopted after notice and hearing. Notice of the hearing shall be by publication as provided in Section 6064 of the Government Code. The hearing shall be held before the legislative body of the local authority. All objections shall be considered and interested parties shall be afforded an adequate opportunity to be heard in respect to their objections. A fee schedule adopted by a local authority pursuant to this subdivision shall not produce a total estimated revenue in excess of the estimated total cost to the local authority for issuing permits. Special services necessitated by unusually large or heavy loads requiring engineering investigations, escorts, tree trimming, or other services shall be billed

separately for each permit.

Nothing in this section shall limit or restrict the application of Section 35782.

CHAPTER 884

An act to add Section 12811.1 to, the Vehicle Code, relating to licenses.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 12811.1 is added to the Vehicle Code, to read.

12811.1. (a) Upon the applicant's request, the department shall issue an adhesive backed medical information card which contains a format permitting the licensee to specify blood type, allergies, past or present medical problems, any medication being taken, the name of the licensee's doctor, the person to notify in case of an emergency, and whether the licensee is under a doctor's care.

(b) The medical information card, which shall be a different color than the anatomical gift sticker authorized by Section 12811, shall be the same size as a driver's license and shall be designed to be affixed to the reverse side of the license.

This section shall become operative on January 1, 1981.

SEC. 2. The Department of Motor Vehicles' cost in issuing the medical information card shall be included in the department's budget commencing with the budget for the 1980–81 fiscal year and shall be appropriated from the General Fund.

CHAPTER 885

An act making an appropriation to the Office of Statewide Health Planning and Development, relating to health personnel training programs

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. The sum of three million one hundred eight thousand four hundred fifty dollars ($3,108,450) is hereby appropriated from the General Fund to the Office of Statewide Health Planning and Development for expenditure during the

1980–81, 1981–82, 1982–83, and 1983–84 fiscal years in accordance with the following schedule:

Schedule

(a) For contracts with accredited medical schools, with programs which train primary care physician's assistants, with programs which train primary care nurse practitioners, and with hospitals or other health care delivery systems located in California, which meet the standards of the Health Manpower Policy Commission established pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of Division 5 of Title 3 of the Education Code $3,002,450

(b) For the period from July 1, 1980, to September 30, 1984, for insuring proper administration and evaluation of training contracted for pursuant to Chapter 1 (commencing with Section 69270) of Part 42 of Division 5 of Title 3 of the Education Code $106,000

CHAPTER 886

An act to add Article 2.7 (commencing with Section 1646) to Chapter 4 of Division 2 of the Business and Professions Code, relating to dentistry, and making an appropriation therefor.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Article 2.7 (commencing with Section 1646) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 2.7. Use of General Anesthesia

1646. (a) General anesthesia, as used in this article, consists of the use of any drug, element, or other material which results in the elimination of all sensations accompanied by a state of unconsciousness.

(b) The conscious patient, as opposed to the patient in an unconscious state, is defined, for purposes of this article, as one with intact protective reflexes, including the ability to maintain an airway and who is capable of rational response to question or command.

1646.1. No dentist shall administer or directly supervise the administration of general anesthesia on an outpatient basis for dental patients unless such dentist possesses a permit of authorization issued by the board. The dentist holding such permit shall be subject to review by the board and such permit shall be renewed annually.

This article shall not apply to the administration of local anesthesia or to conscious-patient sedation.

1646.2. In order to receive a permit for the use of general anesthesia, a dentist shall apply to the board on an application form prescribed by the board. The dentist must submit an application fee and produce evidence showing that he or she has completed a minimum of one year of advanced training in anesthesiology and related academic subjects approved by the board, or equivalent training or experience approved by the board, beyond the undergraduate school level. The board may, by regulation, establish additional requirements under this section.

1646.3. Prior to the issuance or renewal of a permit for the use of general anesthesia, the board may, at its discretion, require an onsite inspection and evaluation of the facility, equipment, personnel, licentiate, and the procedures utilized by such licentiate. Every person issued a permit under this article shall have an onsite inspection at least once in every five-year period. An onsite inspection performed by a public or private organization may be accepted by the board in satisfaction of the requirements of this section.

1646.4. On or before January 1, 1981, each dentist who has been using general anesthesia prior to the enactment of this chapter, shall make a permit application to the board if such dentist desires to continue to use general anesthesia.

The board shall issue the permit to such dentist and may only refuse if, at the board's discretion, an onsite inspection and evaluation of facilities, equipment, personnel, the licentiate, and the procedures utilized by such licentiate indicates that a permit should not be issued

1646.5. New applicants not subject to Section 1646.4, who are otherwise properly qualified, may be granted a temporary permit by the board for one year, and such permit may be renewed at the option of the board.

1646.6. The board shall renew permits for the use of general anesthesia annually, unless the holder is informed in writing 60 days prior to such renewal date that a reevaluation of his or her credentials is to be required. In determining whether such reevaluation is necessary, the board shall consider such factors as it deems appropriate, including, but not limited to, patient complaints and reports of adverse occurrences.

A reevaluation may include an onsite inspection of the facility, equipment, personnel, licentiate, and the procedures utilized by such licentiate.

1646.7. The fee for a permit or renewal under this article shall not exceed fifty dollars ($50). The fee for an onsite inspection shall not exceed one hundred fifty dollars ($150).

1646.8. The board may contract with private organizations expert in dental outpatient anesthesia to perform onsite inspections. The board may not, however, delegate its authority to issue permits or to determine the persons or facilities to be inspected.

1646.9. Violation of any provision of this article may result in the

revocation or suspension of the dentist's permit, license, or both, or the dentist may be reprimanded or placed on probation. The proceedings under 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 board shall have all the powers granted therein.

CHAPTER 887

An act to amend Section 1275.1 of the Health and Safety Code, and to amend Section 5652.5 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 1275 1 of the Health and Safety Code is amended to read:

1275.1. (a) Notwithstanding any rules or regulations governing other health facilities, the regulations developed by the state department for psychiatric health facilities shall prevail. The regulations applying to psychiatric health facilities shall prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified licensed personnel, and of services based on the needs of the persons served thereby

(b) The regulations shall include standards appropriate for two levels of disorder

(1) Involuntary ambulatory psychiatric patients.

(2) Voluntary ambulatory psychiatric patients.

For purposes of this subdivision, "ambulatory patients" shall include, but not be limited to, deaf, blind, physically handicapped, and disoriented persons who are not bedridden or confined to a wheelchair.

(c) The regulations shall not require, but may permit building and services requirements for hospitals which are only applicable to physical health care needs of patients that can be met in an affiliated hospital or in outpatient settings including, but not limited to, such requirements as surgical, dietary, laboratory, laundry, central supply, radiologic, and pharmacy.

(d) The regulations shall include provisions for an "open planning" architectural concept.

(e) The regulations shall exempt from seismic requirements all structures of Type V and of one-story construction.

(f) Standards for involuntary patients shall include provisions to allow for restraint and seclusion of patients Such standards shall

provide for adequate safeguards for patient safety and protection of patient rights.

(g) The regulations shall provide for the retention by the psychiatric health facility of a consultant pharmacist, who shall supervise and review pharmaceutical services within the facility and perform such other services, including prevention of the unlawful diversion of controlled substances subject to abuse, as the state department may by regulation require. Regulations adopted pursuant to this subdivision shall take into consideration the varying bed sizes of psychiatric health facilities.

(h) The Legislature finds and declares that:

(1) Many counties do not now have adequate acute psychiatric 24-hour inpatient care facilities.

(2) Many counties do not now have any beds or services for care of such persons.

(3) Such services can be provided effectively in a nonhospital setting for less cost.

Therefore, in order to allow counties and other organizations to develop such facilities, the Office of Statewide Health Planning and Development in the Health and Welfare Agency shall issue certificates of exemption to applicants whose proposals for facilities are approved by the Department of Mental Health on or before June 30, 1980; provided that the office, not later than 30 days after receipt of such application, shall deny issuance of such certificate of exemption if the office finds, after a public hearing and upon receipt of an affidavit of the State Department of Mental Health, that adequate psychiatric hospital beds now exist in the applicant's local service area to meet the needs of the clients proposed to be serviced pursuant to Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code in the psychiatric health facility. Thereafter, applicants who receive such approval on or after July 1, 1980, shall be required to secure certificates of need. Such certificates of need shall be issued only if the office finds that the applicant's facility will not make available more beds and patient days of care than are necessary to meet the needs for such care in the applicant's county or service area, inclusive of days already provided by existing psychiatric hospitals for the types of patients the applicant proposes to serve. Certificates of exemption issued pursuant to this section shall expire upon failure to commence the project authorized thereby within 18 months from the adoption of regulations required by Section 1254.1, or from the issuance of a certificate of exemption, whichever occurs later.

(i) It is the intent of the Legislature to encourage the establishment of public and private psychiatric health facilities because such facilities can provide acute psychiatric care of quality equal to that which can be provided in a hospital setting at a significantly lower cost.

(j) Regulations shall be developed and presented for adoption at

public hearing pursuant to the Administrative Procedure Act within 180 days of the effective date of this section.

(k) In order to assist in the rapid development of regulations for psychiatric health facilities, the director of the state department, not later than 30 days after the effective date of this section, shall convene an ad hoc advisory committee composed of two members from the State Department of Mental Health, two members of the Conference of Local Mental Health Directors, two members from the State Department of Health Services, one member from the Office of Statewide Health Planning and Development, two persons with experience operating psychiatric facilities and any other persons having a professional or personal nonfinancial interest in development of such regulations. The nonstate employee members of such advisory committee shall pay their own expenses related to participation on the committee. Such committee shall meet at the director's pleasure until such time as the proposed regulations are presented for adoption at public hearing.

SEC 2. Section 5652.5 of the Welfare and Institutions Code is amended to read:

5652.5. (a) Psychiatric health facilities, as defined in Section 1250 of the Health and Safety Code, shall only be licensed by the State Department of Health Services subsequent to application by counties, county contract providers, or other organizations pursuant to this part and approval by the State Department of Mental Health.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for such facility and a description of the services to be provided The local mental health director shall then submit to the governing body such explanation and description in the form of an amendment to the county Short-Doyle plan. The governing body, upon its approval of such amendment, may submit the amendment and approval request to the State Department of Mental Health.

(2) Other organizations that seek to apply for licensure and do not intend to utilize any Short-Doyle funds pursuant to Section 5707 shall submit their approval requests to the governing body in the county in which the facility is to be located. The governing body shall have 30 days during which to make recommendations on such applications At any time after such 30-day period, such organizations may then submit their approval requests, along with the governing body's recommendations, if any, to the State Department of Mental Health.

(c) Until such time as the State Department of Health Services adopts regulations for psychiatric health facilties pursuant to Section 1275.1 of the Health and Safety Code, a county, county contract provider, or other organization may apply to the State Department of Mental Health for licensure waiver for existing facilities pursuant to Section 5768 The State Department of Mental Health shall be the lead agency for coordination of the development of criteria by which

licensure waiver shall be granted and shall be responsible for the coordination of the process for approval of such waivers.

(d) The State Fire Marshal, the Office of Statewide Health Planning and Development, the State Department of Health Services, and other appropriate state agencies shall cooperate fully with the State Department of Mental Health to assure that the State Department of Mental Health shall approve such licensure waivers not later than 90 days after the submission by a county, county contract provider, or other organization of the amendment to the Short-Doyle plan and request for waiver.

(e) Each psychiatric health facility shall be periodically inspected pursuant to Section 1279 of the Health and Safety Code. In order to assure that quality care is provided in such facilities, the representatives of the State Department of Health Services shall be accompanied by a representative or representatives of the State Department of Mental Health and shall invite representatives of the county mental health program and the county mental health advisory board.

(f) It is the intent of the Legislature that the State Department of Mental Health shall approve psychiatric health facilities only if the average per diem changes or costs of service provided in such facilities are approximately 60 percent of the average per diem changes or costs of similar psychiatric services provided in a general hospital. In utilizing such cost guidelines, the department shall take into account local conditions affecting such costs.

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

Counties and other organizations are currently in the process of developing critically needed psychiatric health facilities, and this act assures that those facilities meeting the minimum state requirements will be allowed to operate and those applicants with specific plans for developing a facility may be permitted to implement such plans. In order to further assure that such facilities are adequately and completely established, it is necessary that this act take immediate effect.

CHAPTER 888

An act to add Section 5.8 to the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973), and to add Section 5.8 to the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973), and to add Section 26912.2 to the Government Code, relating to water agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 5.8 is added to the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973), to read:

Sec. 5.8. The board may raise revenue in the same manner and in accordance with the same provisions as applicable to reclamation districts under Division 15 (commencing with Section 50000) of the Water Code, with the exception of the provisions of Article 4 (commencing with Section 51360) of Chapter 2 of Part 7 of Division 15 of the Water Code.

The agency shall not be eligible to receive any property taxes levied pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code.

SEC. 2. Section 5.8 is added to the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973), to read:

Sec 5 8 The board may raise revenue in the same manner and in accordance with the same provisions as applicable to reclamation districts under Division 15 (commencing with Section 50000) of the Water Code, with the exception of the provisions of Article 4 (commencing with Section 51360) of Chapter 2 of Part 7 of Division 15 of the Water Code.

The agency shall not be eligible to receive any property taxes levied pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code.

SEC. 3. Section 26912 2 is added to the Government Code, to read:

26912 2 Notwithstanding Section 26912, no allocation of property taxes levied pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code shall be made in the 1979–80 fiscal year and thereafter to the Central Delta Water Agency or to the South Delta Water Agency.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation 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 to make the provisions of this act applicable with regard to the 1979–80 fiscal year and to thereby provide vital protection to the water resources of the state at the earliest possible time, it is necessary that this act go into effect immediately.

CHAPTER 889

An act to amend Section 7005 of the Civil Code, to amend Sections 6313, 6409, 6410, 6412, 6413, and 6413.5 of, and to add Sections 6409.1, 6409.2, and 6409.3 to, the Labor Code, relating to medical records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 7005 of the Civil Code is amended to read:

7005. (a) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and retain the husband's consent as part of the medical record, where it shall be kept confidential and in a sealed file. However, the physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

SEC. 2. Section 6313 of the Labor Code is amended to read:

6313. (a) The division shall investigate the causes of any employment accident which is fatal to one or more employees or which results in a serious injury, as defined in subdivision (b) of Section 6409.1, to five or more employees.

(b) The division may investigate the causes of any other industrial accident or occupational illness which has caused serious injury or which has a substantial probability of causing serious injury, as defined in subdivision (b) of Section 6409.1, and which occurs within the state in any employment or place of employment, or which directly or indirectly arises from or is connected with the maintenance or operation of such employment or place of employment, and shall issue any orders necessary to eliminate such causes and to prevent reoccurrence. Such orders shall not be admitted as evidence in any action for damages, or any proceeding to recover compensation, based on or arising out of such injury or death

SEC. 3. Section 6409 of the Labor Code is amended to read:

6409 (a) Every physician as defined in Section 3209.3 who

attends an injured employee shall file a complete report of every occupational injury or occupational illness to each employee with the employer, or if insured, with the employer's insurer, on forms prescribed for that purpose by the Division of Labor Statistics and Research. If the treatment is for an occupational illness, or a condition suspected to be an occupational illness, pesticide poisoning, or a condition suspected to be pesticide poisoning, the employer or insurer, as the case may be, shall file a copy of the physician's report with the Department of Industrial Relations, through its Division of Labor Statistics and Research, within five days of receipt. Each such report of occupational injury or occupational illness shall indicate the social security number of the injured employee. If the treatment is for pesticide poisoning or a condition suspected to be pesticide poisoning, the physician shall also file a complete report with the Division of Labor Statistics and Research.

(b) As used in this section, "occupational illness" means any abnormal condition or disorder caused by exposure to environmental factors associated with employment, including acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

SEC. 4. Section 6409.1 is added to the Labor Code, to read:

6409.1. (a) Every employer shall file a complete report of every occupational injury or occupational illness, as defined in subdivision (b) of Section 6409, to each employee which results in lost time beyond the date of such injury or illness, or which requires medical treatment beyond first aid, with the Department of Industrial Relations, through its Division of Labor Statistics and Research or, if an insured employer, with the insurer. Each such report of occupational injury or occupational illness shall indicate the social security number of the injured employee. In the case of an insured employer, the insurer shall file a copy of the employer's report with such division immediately upon receipt.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or telegraph.

As used in this subdivision, "serious injury or illness" means any injury or illness occurring in a place of employment or in connection with any employment which requires inpatient hospitalization for a period in excess of 24 hours for other than medical observation or in which an employee suffers a loss of any member of the body or any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by the commission of a Penal Code violation, except the violation of Section 385 of the Penal Code, or an accident on a public street or highway.

SEC. 5 Section 6409.2 is added to the Labor Code, to read:

6409 2 Whenever a state, county, or local fire or police agency is called to an accident involving an employee covered by this part in which a serious injury or illness, or death occurs, the nearest office

of the Division of Occupational Safety and Health shall be notified by telephone immediately by the responding agency.

SEC 6. Section 6409.3 is added to the Labor Code, to read:

6409.3. In no case shall the treatment administered for pesticide poisoning or a condition suspected as pesticide poisoning be deemed to be first aid treatment.

SEC. 7. Section 6410 of the Labor Code is amended to read:

6410. The reports required by subdivision (a) of Section 6409, subdivision (a) of Section 6409.1, and Section 6413 shall be made in the form and detail and within the time limits prescribed by reasonable rules and regulations adopted by the Division of Labor Statistics and Research 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.

Nothing in this chapter requiring recordkeeping and reporting by employers shall relieve such employer of maintaining records and making reports to the assistant secretary, United States Department of Labor, as required under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). The Division of Labor Statistics and Research shall prescribe and provide the forms necessary for maintenance of the required records, and the Division of Occupational Safety and Health shall enforce by citation and penalty assessment any violation of the recordkeeping requirements of this chapter.

All state and local government employers shall maintain records and make reports in the same manner and to the same extent as required of other employers by this section.

SEC. 8. Section 6412 of the Labor Code is amended to read:

6412. No report of injury or illness required by subdivision (a) of Section 6409 1 shall be open to public inspection or made public, nor shall such reports be admissible as evidence in any adversary proceeding before the Workers' Compensation Appeals Board. However, the reports required of physicians by subdivision (a) of Section 6409 shall be admissible as evidence in such proceeding.

SEC. 9. Section 6413 of the Labor Code is amended to read

6413. (a) The Department of Corrections, and every physician or surgeon who attends any injured state prisoner, shall file with the Division of Labor Statistics and Research a complete report of every injury to each state prisoner, not reported pursuant to subdivision (a) of Section 6409 or Section 6409.1, resulting from any labor performed by the prisoner unless disability resulting from such injury does not last through the day or does not require medical service other than ordinary first aid treatment The Division of Labor Statistics and Research may, 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, adopt reasonable rules and regulations prescribing the details and time limits of such report.

(b) Where the injury results in death a report, in addition to the report required by subdivision (a), shall forthwith be made by the

Department of Corrections to the Division of Labor Statistics and Research by telephone or telegraph.

(c) Except as provided in Section 6304.2, nothing in this section or in this code shall be deemed to make a prisoner an employee, for any purpose, of the Department of Corrections

(d) Notwithstanding the provisions of subdivision (a), no physician or surgeon who attends any injured state prisoner outside of a Department of Corrections institution shall be required to file the report required by subdivision (a), but the Department of Corrections shall file such report.

SEC. 10. Section 6413.5 of the Labor Code is amended to read:

6413.5. Any person who fails to comply with any provision of subdivision (a) of Section 6409, Sections 6409.1, 6409.2, 6409.3, or 6410 is guilty of a misdemeanor punishable by a fine of not less than twenty-five dollars ($25) nor more than one hundred dollars ($100). This section may be enforced by the Division of Labor Statistics and Research through the Director of Industrial Relations in the same manner as provided in Section 3710.

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 reduce the volume of unnecessary paper work and to change the reporting requirements imposed by the provisions of existing law as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 890

An act to amend Sections 1257 and 2675 of the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 1257 of the Unemployment Insurance Code is amended to read:

1257. An individual is also disqualified for unemployment compensation benefits if

(a) He or she willfully, for the purpose of obtaining unemployment compensation benefits, either made a false statement or representation, with actual knowledge of the falsity thereof, or withheld a material fact in order to obtain any unemployment compensation benefits under this division.

(b) He or she, without good cause, refused to accept suitable

employment when offered to him or her, or failed to apply for suitable employment when notified by a public employment office.

SEC 2. Section 2675 of the Unemployment Insurance Code is amended to read:

2675. An individual shall be disqualified from receiving benefits under this part if he or she has willfully, for the purpose of obtaining benefits, either made a false statement or representation, with actual knowledge of the falsity thereof, or withheld a material fact in order to obtain any benefits under this part. An individual disqualified under this section shall be ineligible to receive benefits for the day during which there occurred the cause of the disqualification and for not less than six nor more than 34 days which immediately follow such day, if the claimant is unemployed due to a disability for such period. If there is a recurrence of the same disqualification, subsequent to the initial disqualification during such period, the director may, in his or her discretion, extend the period of ineligibility for an additional period not to exceed 56 days.

SEC. 3 The amendment of these sections made at the 1979–80 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law, and is intended to overrule the California Unemployment Appeals Board Precedent Benefit Decision No 379.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the Legislature finds and declares that this act makes only technical changes to existing law not requiring reimbursement. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 891

An act to amend Section 2124 of, and to repeal and add Section 2376 5 of, the Business and Professions Code, and to amend Sections 3, 12, and 14 of, and to repeal Section 13 of, Chapter 955 of the Statutes of 1978, relating to medicine.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 2124 of the Business and Professions Code is amended to read:

2124 A medical quality review committee shall have the following authority and duties:

(a) To initiate reviews of the quality of medical care practiced by

certificate holders.

(b) To investigate all matters assigned to it by the Division of Medical Quality, and such other matters within the jurisdiction of a committee which it finds warrant action.

(c) To initiate investigations of complaints made by members of the public, and other certificate holders, a health care facility or a division of the board that a certificate holder has been guilty of unprofessional conduct and to report to the complainant within 90 days of the receipt of the complaint by the committee as to the committee's findings and decision. All investigations made pursuant to this section shall be commenced immediately and completed within 90 days, with 30-day progress reports submitted to the Division of Medical Quality.

(d) To investigate the circumstances of practice of any physician and surgeon certificate holder which have resulted in any judgments or settlements requiring the certificate holder or insurer of the certificate holder to pay any amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the certificate holder's error, negligence, or omission.

(e) Investigations conducted pursuant to this section shall be commenced within 15 days and completed within three months. Where applicable, a progress report shall be issued to the complainants within 30 days of the initiation of the investigation. Once an investigation has been completed and grounds for disciplinary action are found by the Attorney General to exist, the Attorney General shall file an accusation within 30 days. A hearing shall be held within 45 days after the last day upon which discovery can be completed

(f) Where a review or investigation carried out pursuant to subdivision (a), (b), (c), or (d) of this section results in a likelihood or a finding of unprofessional conduct, to hold a hearing pursuant to Section 2123.9 to determine whether unprofessional conduct has occurred.

(g) Upon a finding of unprofessional conduct to take appropriate remedial or disciplinary action in relation to the certificate holder pursuant to Sections 2372, 2372.1, and 2372.5.

(h) Seek injunctions or restraining orders pursuant to Section 2436.

(i) A committee or a panel of a committee which investigates a certificate holder pursuant to this section shall not be the committee or panel of a committee which hears any disciplinary matters resulting from that investigation.

(j) To convene a panel to hear a petition for reinstatement of a certificate or petition for modification of penalty as assigned by the Division of Medical Quality pursuant to Section 2376.5.

SEC. 2 Section 2376 5 of the Business and Professions Code is repealed

SEC 3 Section 2376.5 is added to the Business and Professions

Code, to read:

2376 5. A person whose certificate has been revoked or suspended or who has been placed on probation may petition the Division of Medical Quality for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than one year has elapsed from the effective date of the decision ordering such disciplinary action.

The petition shall state such facts as may be required by the Division of Medical Quality. The petition shall be accompanied by at least two verified recommendations from physicians licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition may be heard by the division, or the division may assign the petition to a medical quality review committee for hearing by a panel thereof duly constituted under Section 2123.3. For the purposes of such a hearing, five members of a panel shall constitute a quorum.

The Division of Medical Quality or a panel hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth and professional ability. The hearing may be continued from time to time as the division or panel finds necessary

The Division of Medical Quality or a panel reinstating a certificate or modifying a penalty may impose such terms and conditions as it deems necessary. To reinstate a revoked certificate requires the affirmative vote of at least five members of the Division of Medical Quality or the unanimous vote of the panel hearing the petition, as the case may be. To otherwise reduce a penalty or modify probation requires the affirmative vote of at least four members of the division or the affirmative vote of at least three members of the panel hearing the petition, as the case may be. A decision by the division or a panel shall be final

No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The Division of Medical Quality may deny without a hearing or argument any petition filed pursuant to this section where the petitioner has been afforded a hearing upon any petition filed pursuant to this section within a period of two years from the effective date of the prior decision.

SEC. 4. Section 3 of Chapter 955 of the Statutes of 1978 is amended to read:

Sec. 3. The division shall select, by January 1, 1980, no less than three medical quality review committees to participate in the pilot project.

SEC 5 Section 12 of Chapter 955 of the Statutes of 1978 is amended to read:

Sec. 12. The Division of Medical Quality shall make an interim report evaluating the success of the pilot project authorized by this act to both the Legislature and the Governor by January 1, 1981. It shall make a final report thereto by January 1, 1982, which shall include its recommendations as to the feasibility of statewide implementation of the program.

SEC. 6. Section 13 of Chapter 955 of the Statutes of 1978 is repealed.

SEC. 7. Section 14 of Chapter 955 of the Statutes of 1978 is amended to read:

Sec. 14. The provisions of this act shall be operative until January 1, 1982, and shall have no force or effect on and after that date.

CHAPTER 892

An act to amend Section 54774 of the Government Code, relating to local planning.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 54774 of the Government Code is amended to read:

54774. Among the purposes of a local agency formation commission are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local governmental agencies based upon local conditions and circumstances. One of the objects of the local agency formation commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local governments in each county and to shape the development of local governmental agencies so as to advantageously provide for the present and future needs of each county and its communities.

In addition to its other powers, the local agency formation commission shall initiate and make studies of existing governmental agencies. Such studies shall include but shall not be limited to inventorying such agencies and determining their maximum service area and service capacities. In conducting such studies, the commission may ask for land use information, studies, and plans of cities, counties, districts, including school districts, and regional agencies and state agencies and departments. Cities, counties, districts, including school districts, regional agencies, and state agencies and departments, shall comply with the request of the commission for such information and the commission shall make its studies available to public agencies and any interested person. In making these studies, the commission may cooperate with the

county planning commissions.

In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the local agency formation commission shall develop and determine the sphere of influence of each local governmental agency within the county As used in this section, "sphere of influence" means a plan for the probable ultimate physical boundaries and service area of a local governmental agency. Among the factors considered in determining the sphere of influence of each local governmental agency, the commission shall consider, and prepare a written statement of its findings with respect to, each of the following:

(a) The maximum possible service area of the agency based upon present and possible service capabilities of the agency.

(b) The range of services the agency is providing or could provide.

(c) The projected future population growth of the area.

(d) The type of development occurring or planned for the area, including, but not limited to, residential, commercial, and industrial development

(e) The present and probable future service needs of the area

(f) Local governmental agencies presently providing services to such area and the present level, range, and adequacy of services provided by such existing local governmental agencies.

(g) The existence of social and economic interdependence and interaction between the area within the boundaries of a local governmental agency and the area which surrounds it and which could be considered within the agency's sphere of influence.

(h) The existence of agricultural preserves in the area which could be considered within an agency's sphere of influence and the effect on maintaining the physical and economic integrity of such preserves in the event that such preserves are within a sphere of influence of a local governmental agency

Upon determination of a sphere of influence, the commission shall adopt such sphere, and shall periodically review and update the adopted sphere

The spheres of influence, after adoption, shall be used by the commission as a factor in making regular decisions on proposals over which it has jurisdiction. The commission may recommend governmental reorganizations to particular agencies in the county, using the spheres of influence as the basis for such recommendations Such recommendations shall be made available, upon request, to other governmental agencies or to the public

The commission, or the board of supervisors on behalf of the commission, is authorized to apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state or federal government or from a local government

SEC 2. Notwithstanding Section 2231 or 2234 of the Revenue and

Taxation Code, there shall be no appropriation made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that such agency may pursue any other remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 893

An act to add Chapter 3.9 (commencing with Section 1599) to Division 2 of the Health and Safety Code, relating to health.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Chapter 3.9 (commencing with Section 1599) is added to Division 2 of the Health and Safety Code, to read:

CHAPTER 3.9. SKILLED NURSING AND INTERMEDIATE CARE FACILITY PATIENT'S BILL OF RIGHTS

1599. It is the intent of the Legislature in enacting this chapter to expressly set forth fundamental human rights which all patients shall be entitled to in a skilled nursing or intermediate care facility, as defined in Section 1250, and to ensure that patients in such facilities are advised of their fundamental rights and the obligations of the facility.

1599.1 Written policies regarding the rights of patients shall be established and shall be made available to the patient, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. Such policies and procedures shall ensure that each patient admitted to the facility shall have the following rights and be notified of the following facility obligations, in addition to those specified by regulation:

(a) The facility shall employ an adequate number of qualified personnel to carry out all of the functions of the facility.

(b) Each patient shall show evidence of good personal hygiene, be given care to prevent bedsores, and measures shall be used to prevent and reduce incontinence for each patient.

(c) The facility shall provide food of the quality and quantity to meet the patients' needs in accordance with physicians' orders.

(d) The facility shall provide an activity program staffed and equipped to meet the needs and interests of each patient and to encourage self-care and resumption of normal activities. Patients

shall be encouraged to participate in activities suited to their individual needs.

(e) The facility shall be clean, sanitary, and in good repair at all times

(f) A nurses' call system shall be maintained in operating order in all nursing units and provide visible and audible signal communication between nursing personnel and patients. Extension cords to each patient's bed shall be readily accessible to patients at all times.

1599 2 Written information informing patients of their rights shall include a preamble or preliminary statement in substantial form as follows:

(a) Further facility requirements are set forth in the Health and Safety Code, and in Title 22 of the California Administrative Code.

(b) Willful or repeated violations of either code may subject a facility and its personnel to civil or criminal proceedings.

(c) Patients have the right to voice grievances to facility personnel free from reprisal and can submit complaints to the State Department of Health Services or its representative.

1599.3 Any rights under this chapter of a patient judicially determined to be incompetent, or who is found by his physician to be medically incapable of understanding such information, or who exhibits a communication barrier, shall devolve to such patient's guardian, conservator, next of kin, sponsoring agency, or representative payer, except when the facility itself is the representative payer.

1599.4 In no event shall this chapter be construed or applied in a manner which imposes new or additional obligations or standards on skilled nursing or intermediate care facilities or their personnel, other than in regard to the notification and explanation of patient's rights or unreasonable costs.

SEC 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 894

An act to amend Section 429 78 of the Health and Safety Code, relating to health.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 429.78 of the Health and Safety Code is amended to read:

429.78. The office shall carry out periodic onsite visitations of each approved project and shall evaluate each project to determine the following:

(a) The new health skills taught or extent to which existing skills have been reallocated

(b) Implication of the project for existing licensure laws with suggestions for changes in the law where appropriate

(c) Implications of the project for health services curricula and for the health care delivery systems.

(d) Teaching methods used in the project.

(e) The quality of care and patient acceptance in the project

(f) The extent to which persons with the new skills could find employment in the health care system, assuming laws were changed to incorporate their skill.

(g) The cost of care provided in the project, the likely cost of such care if performed by the trainees subsequent to the project, and the cost for provision of such care by current providers thereof

The office shall report to the Legislature and appropriate licensing boards annually commencing November 1, 1980, on the status of the projects.

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

---

CHAPTER 895

An act to amend Sections 1770, 1770.5, 1770.7, 1771, 1771.2, 1771.5, 1779, 1779.3, 1779.8, 1782.5, and 1789 of, and to add Section 1773.5 to, the Health and Safety Code, relating to life care contracts.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 1770 of the Health and Safety Code is amended to read:

1770. (a) Any organization or person may receive transfers of property from an aged person, conditioned upon an agreement to furnish life care or care for a period of more than one year, which agreement may include the cash payment of personal and incidental expenses to the transferor or his nominee; provided, such organization or person has received a written license pursuant to Chapter 2 (commencing with Section 1250) or Chapter 3 (commencing with Section 1500) of this division, and, except as otherwise provided in subdivision (b), such organization or person has been granted a certificate of authority by the State Department of Social Services.

(b) Arrangements between persons who are exempt from licensing pursuant to Section 1505 of this code, shall not be required to obtain a certificate of authority. Exclusions provided by this subdivision include care by a relative or care of persons from only one family by a close friend, if the arrangement is not for financial profit.

(c) Organizations or persons who furnish care exclusively under agreements, which may be canceled by either party without cause, are required to obtain a certificate of authority from the state department for all agreements issued after October 1, 1957, if payment or transfer of property is made in advance to cover cost of care for one year or more; provided, however, that, if any such organization or person is a nonprofit benevolent organization, which accepts property in an amount less than the cost of care, the amount of reserve required of it under Section 1775 shall be reduced in the same proportion as the estimated cost of care bears to the value of the property transferred.

SEC. 2. Section 1770.5 of the Health and Safety Code is amended to read:

1770.5. (a) The Legislature finds and declares that abrupt and involuntary transfer of frail, elderly residents from one home to another can and does have tragic consequences. Numerous studies have shown that such forced movement often results in the death of the transferee and almost always causes depression or regressive behavior. Called "transfer trauma," the cause of this reaction has been variously ascribed to the loss of a familiar physical environment, loss of well-known neighbors, attendants, nurses and medical personnel, the stress of an abrupt break in the small routines of daily life, and the major loss of visits from friends and relatives who may be unable to reach the new facility. Involuntary transfer may occur when a provider of services under a life care contract has been found to be insolvent or substantially out of compliance with state operating standards and is temporarily or permanently denied a certificate of authority. Currently the State Department of Social

Services has no mechanism by which to ensure the orderly transfer of residents or the liquidation of facilities' assets.

(b) It is the intent of the Legislature in enacting this chapter to provide a procedure whereby the State Department of Social Services, after consultation with a special advisory board, may petition the superior court for an order appointing a qualified administrator to work with the management of, and, in specified circumstances, to operate a facility of, a provider which has been found to be out of compliance with the rules and regulations for the performance of life care contracts and thereby prevent crisis situations wherein elderly residents are left without means for their support or moved without proper preparation.

(c) It is the intent of the Legislature that the administrator may only assume the operation of such a provider in order to either bring it into compliance with law and return it to the original certificate holder in accordance with standards set forth in this chapter, or facilitate an orderly liquidation of the provider. It is the intent of the Legislature that the administrator shall assure the orderly transfer of residents should the provider ultimately fail

SEC 3. Section 1770.7 of the Health and Safety Code is amended to read:

1770.7. The provisions of this chapter are in addition to, and do not supersede any other provision of law or regulations adopted pursuant thereto which are as strict or are stricter. The Legislature intends that the provisions of this chapter shall be minimum requirements to be imposed upon any person, association, or organization undertaking the responsibility for providing for another person's lifetime or long-term board and lodging, and care as necessary, in exchange for any prepayment or transfer of property prior to such services actually being rendered, whether or not such prepayment or transfer of property is supplemented with periodic or other payments For such reasons, the provisions of this chapter shall be liberally construed for the protection of persons attempting to secure their care for the remainder of their lifetime or for a period in excess of one year.

SEC. 4. Section 1771 of the Health and Safety Code is amended to read·

1771. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter

(a) "Advisory board" or "board" means the Life Care Contract Advisory Board

(b) "Certificate" or "certificate of authority" means an authorization in writing, in the form designated by the state department, for a provider to enter into one or more life care contracts at a single specified facility

(c) "Contracts" or "agreements" means life care contracts

(d) "Department" or "state department" means the State Department of Social Services.

(e) "Director" means the Director of Social Services

(f) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or property, made or promised to be made by a person entering into a life care contract, for the purpose of assuring services pursuant to a life care contract or as full or partial payment for the promise to provide a facility.

(g) "Escrow agent" means any of the following entities approved by the director as capable of ensuring the safety of the funds and properties entrusted to it and capable and willing to perform the terms of such escrow pursuant to the escrow agreement and the provisions of this chapter:

(1) A bank which is a member of the Federal Deposit Insurance Corporation.

(2) A building and loan association which is a member of the Federal Savings and Loan Insurance Corporation.

(3) A trust company.

(4) Any other escrow agent.

(h) "Facility" means any place or accommodation in which a provider undertakes to provide a resident with nursing services, medical services, health-related services, board and lodging and care as necessary, or any combination of such services, for a term in excess of one year, or for life, pursuant to a life care contract, whether such accommodation is constructed, owned, leased, rented or otherwise contracted for by the provider.

(i) "Life care contract" means a contract to provide to a person for the duration of such person's life or for a term in excess of one year, nursing services, medical services, or health-related services, board and lodging and care as necessary, or any combination of such services, for such person in a facility, which is conditioned upon the transfer of property. Such transfer may include a payment of an entrance fee to the provider of such services or the payment of regular periodic charges for the care and services involved, or both such payments and includes continuing care agreements.

(j) "Living unit" means an apartment, room, or other area within a facility set aside for the exclusive use of one or more identified residents.

(k) "Monthly care fee" means the monthly cost to a resident of services rendered pursuant to a life care contract, exclusive of entrance fees or other prepayments, but including all nursing services, medical services or health-related services, board and lodging, or any combination of such services, and any other regular periodic charges to the resident, determined on a monthly basis, pursuant to the provisions of a life care contract.

(*l*) "Prepaid life care contract" means a life care contract under which the advance payment, including any entrance fee, is more than nine times the annual amount of the monthly care fee or 108 times the monthly care fee.

(m) "Provider" means a person, association, or organization of any kind which provides, or proposes to provide, services or board and lodging pursuant to a life care contract.

(n) "Resident" means a person who enters into a life care contract with a provider, or who is designated in a life care contract, to be a person being provided or to be provided with services or board and lodging

(o) "Transferor" means a person who transfers or promises to transfer a sum of money or property to a provider for the purpose of assuring services pursuant to a life care contract, whether for the benefit of the transferor or another.

SEC. 5. Section 1771.2 of the Health and Safety Code is amended to read:

1771.2 On and after January 1, 1979, no person, association, or organization may enter into a life care contract as a provider except pursuant to this chapter. Any transfer of a sum of money or property, real or personal, to a provider pursuant to a life care contract executed in violation of the provisions of this chapter is voidable at the option of the transferor for a period of 90 days from the execution of the transfer, and no action may be brought for the reasonable value of any services rendered between the date of transfer and the date the transferor disaffirms the contract. With respect to real property, the right of disaffirmance or rescission is conclusively presumed to have terminated if a notice of intent to rescind is not recorded with the county recorder of the county in which such real property is located within 90 days from the date of execution of the conveyance by the transferor. Any deed or other instrument of conveyance shall contain a recital that the transaction is made pursuant to a "life care contract" and may be subject to rescission by the transferor within 90 days from the date of the transfer

SEC. 6. Section 1771.5 of the Health and Safety Code is amended to read:

1771.5. (a) An application for issuance of a certificate of authority shall be accompanied by projected annual income statements for the facility for not less than a five-year period commencing on the date the facility is intended to become operational, if operation of the facility has not yet commenced, or projected annual income statements for a period commencing on the first day of the first fiscal year following the most recent year for which a certified financial statement has been provided pursuant to Section 1771 4. The projected annual income statements may be either on an accrual basis or a cash basis, but shall use the same accounting system as used in the certified financial statements. If the projected annual income statements are on an accrual basis, separate cash flow statements shall also be provided The projected annual income statements shall include all of the following·

(1) The beginning cash balance, and in the event that operation of the facility has not yet commenced, the beginning cash balance shall be consistent with the statement of anticipated source and application of funds described in subdivision (n) of Section 1771 8.

(2) The anticipated earnings on cash reserves.

(3) The estimates of net receipts from entrance fees other than

entrance fees included in the statement of source and application of funds required under subdivision (n) of Section 1771.8, less estimated entrance fee refunds, and a description of the actuarial basis and method of calculation for the projection of entrance fee receipts.

(4) An estimate of gifts or bequests if any are to be relied on to meet operating expenses.

(5) A projection of estimated income from fees and charges other than entrance fees, showing individual rates presently anticipated to be charged, including a description of the assumptions used for calculating the effect on the income of the facility of subsidized health services to be provided pursuant to the life care contracts.

(6) A projection of estimated operating expenses of the facility, including a description of the assumptions used in calculating the expenses, with separate allowances for the replacement of equipment and furnishings and anticipated major structural repairs or additions.

(7) An estimate of annual payments of principal and interest required by any mortgage loan, lease, contract, rental agreement, or other long-term financing.

(b) If the income statements required by subdivision (a) indicate that the provider will have cash balances over and above two months' projected operating expenses of the facility, a description of the manner in which the reserve funds will be invested, and the persons who will be making the investment decisions, shall accompany the application.

SEC. 6.5. Section 1773.5 is added to the Health and Safety Code, to read:

1773.5. An individual or corporation, planning to construct a life care facility using deposits from potential residents, may apply to the department for a permit to sell deposit subscriptions in lieu of the performance bond required by Section 1773. The permit to sell deposit subscriptions shall be based on the same criteria as an application for a certificate of authority (except possession of licenses) plus an acceptable arrangement for maintaining deposits by an escrow agent until the project is at least 50 percent completed and 50 percent subscribed to.

SEC. 7. Section 1779 of the Health and Safety Code is amended to read:

1779 Any agreement constituting a life care contract shall contain all of the following in addition to any other terms or matter required by the state department

(a) The value of all property transferred, including, but not limited to, donations, subscriptions, fees, and any other amounts paid or payable by or on behalf of the resident.

(b) The services which are to be provided by the provider to the resident, including, in detail, all items which the resident will receive, such as board, room, medical care, clothing, burial, incidentals, and whether such items will be provided for a designated time period or for life.

(c) A copy of the current financial statement.

(d) A statement in boldface type informing the transferor of the terms and conditions under which the contract may be terminated by either party, including any health or financial conditions for a person to continue as a resident and any conditions under which all or any portion of the entrance fee will not be refunded by the provider. No life care contract shall be terminated except upon at least 90 days' notice, except that, during the first 90-day trial residence period, the agreement may be terminated by either party without cause and without advance notice. Such requirement shall be written into the terms of the contract, consistent with state law.

(e) A conspicuous statement in a size equal to at least 10-point boldface type in immediate proximity to the space reserved for the signature of the transferor that provides as follows.

"You, the transferor, may cancel this transaction at any time within 90 days from the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(f) A completed form in duplicate, captioned "Notice of Cancellation" which may be attached to the agreement and be easily detachable, and which shall contain in type of at least 10-point size the following statement:

"Notice of Cancellation"

/Enter date of transaction/

(Date)

You may cancel this transaction, without any penalty, within 90 days from the above date.

If you cancel, any property transferred, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the provider of your cancellation notice, and any security interest arising out of the transaction will be canceled

If you cancel, you are obligated for the reasonable value of the services received by you from the provider after the first seven days up to the date you canceled or made available to the provider the possession of any living unit delivered to you under this contract, whichever is later.

If you cancel, you must make available to the provider, in substantially as good condition as when received, the possession of any living unit delivered to you under this contract

Possession of the living unit must be made available to the provider within 20 days of your notice of cancellation If you fail to make the possession of any living unit available to the provider, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a

telegram
to _____ ,
/Name of provider/
at _____
/Address of provider's place of business/
not later than midnight of _____
(Date)
I hereby cancel this transaction _____
(Date)

_____
(Transferor's signature)

(g) The name and address of the provider to which a notice of cancellation is to be delivered.

(h) The date the transferor signed the agreement.

(i) With respect to the transfer of real property pursuant to this chapter, a statement that the deed or other instrument of conveyance shall contain a recital that the transaction is made pursuant to a "life care contract" and may be subject to rescission by the transferor within 90 days from the date the transfer.

The failure to comply with the provisions of this subdivision shall not affect the validity of title to real property transferred pursuant to this chapter.

SEC. 8. Section 1779.3 of the Health and Safety Code is amended to read:

1779.3. (a) A clearly legible copy of any life care contract, completely filled out with no blank spaces, executed by the provider and executed by a transferor, shall be furnished, with all required or included attachments including, but not limited to, the attached notice of cancellation and the financial reports, income statements, and escrow statements, to such transferor at the time the life care contract is executed and shall be furnished within 10 days to the resident if the resident is other than the transferor.

(b) Until the provider has complied with this section, and for 90 days thereafter, the transferor may cancel the life care contract by written notice, and, if possession of the living unit delivered under the contract, if any, is made available to the provider in substantially as good condition as when received, no obligation of any kind, except a reasonable processing fee to cover costs and the reasonable value of services rendered after the first seven days pursuant to the canceled contract, shall be incurred by the resident.

SEC. 9. Section 1779.8 of the Health and Safety Code is amended to read:

1779.8. (a) Within 10 days after a life care contract has been canceled, the provider shall tender to the transferor money or property transferred by the transferor, whether as entrance fees or application fees, less a reasonable processing fee to cover costs and the reasonable value of services rendered after the first seven days pursuant to the canceled contract, and any note, notes, or other evidences of indebtedness. With respect to real property, the

provider shall undertake to perform such other acts as are necessary to effect a restoration of, or title to, such real property to the transferor.

(b) No resident shall be required to move into a facility until after the expiration of the first seven days of the 90-day cancellation period.

(c) In case of failure of a provider to comply with the provisions of this section, the transferor may recover, in addition to damages or remedies otherwise provided by law, reasonable attorneys' fees as determined by the court.

(d) Any transfer of property, real or personal, received pursuant to a life care contract by a provider, to any third person within such 90-day cancellation period is contrary to public policy and voidable at the option of the transferor to the provider for a period of 90 days from the date of execution of the conveyance; provided, however, that the disaffirmance or rescission of the transfer shall not apply to any transfer to a bona fide purchaser without notice of the 90-day cancellation period

(e) With respect to real property, the right of disaffirmance or rescission is conclusively presumed to have terminated if a notice of intent to rescind is not recorded with the county recorder of the county in which such real property is located within 90 days from the date of execution of the conveyance by the transferor. Any deed or other instrument of conveyance shall contain a recital that the transaction is made pursuant to a "life care contract" and may be subject to rescission by the transferor within 90 days from the date of the transfer.

SEC. 10. Section 1782.5 of the Health and Safety Code is amended to read:

1782.5. (a) Each and every provider shall file an annual audit and reports with the department within four months after the end of the fiscal year of that provider. The audit and reports shall be in a form and contain any information required by the regulations of the department. The department shall provide copies of the audit and reports to the Department of Finance which shall review each audit and report and report thereon to the department. The annual audit and reports and any amendments thereto, shall be signed by the chief executive officer of the provider, and certified by the oath of the chief executive officer, stating that to the best of his knowledge and belief, the items are correct.

(b) A provider shall amend its annual financial statement on file with the department at any time, without the payment of any additional fee, if an amendment is necessary to prevent the financial statement from containing a material misstatement of fact or omitting to state a material fact required to be stated.

SEC. 11. Section 1789 of the Health and Safety Code is amended to read:

1789. Except as otherwise provided in Section 1789.2, no report, circular, public announcement, certificate, financial statement, or

any other printed matter or advertising material, or oral representation of such matters, which lists or refers to the name of any individual or organization, including, but not limited to, registered charities and religious organizations, shall be used to solicit or induce persons to enter into life care contracts, unless there is on file with the department a written and legally sufficient document of acceptance of full responsibility and liability by such individual or organization, for such contracts.

Any person, organization, provider, association, or corporation, that issues, delivers, or publishes, or, as manager or officer or in any other administrative capacity, assists in the issuance, delivery, or publication of any printed matter, oral representation, or advertising material which does not conform to the requirements of this section is guilty of a misdemeanor and such act shall constitute cause for the suspension of all and any licenses, permits, and certificates of authority issued to such person, organization, provider, association, or corporation by any agency of the state.

CHAPTER 896

An act to amend Sections 5450, 5453, 5454, 5460, and 5461 of, and to add Sections 5461.1, 5462.1, 5465, and 5466 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 5450 of the Welfare and Institutions Code is amended to read:

5450. It is the intent of the Legislature to establish a system of residential treatment programs in every county which provide, in each county, a range of available services which will be alternatives to institutional care and are based on principles of residential, community-based treatment.

SEC. 2 Section 5453 of the Welfare and Institutions Code is amended to read:

5453. The State Director of Mental Health shall use the following as criteria in determining the eligibility of each applicant:

(a) Facilities:

(1) Settings, whether residential or day, shall be as close to a normal home environment as possible without sacrificing client safety or care.

(2) Residential treatment centers shall be relatively small, preferably 15 beds or less, but in any case with the appearance of a noninstitutional setting

(3) The individual elements of the system shall, where possible, be

in separate facilities, and not part of one large facility attempting to serve an entire range of clients.

(b) Staffing patterns:

(1) Staffing patterns shall reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, sexual and other social characteristics of the community the facility serves.

(2) The programs shall be designed to use appropriate multidisciplinary professional consultation and staff to meet the specific diagnostic and treatment needs of the clients.

(3) Programs shall use paraprofessionals and persons who have been consumers of mental health services where appropriate.

(c) Programs:

(1) The programs shall, to the maximum extent feasible, be designed so as to reduce the dependence on psychiatric medications as a primary treatment tool.

(2) The programs shall have a rehabilitation focus which encourages the client to develop the skills to become self-sufficient and capable of increasing levels of independent functioning. Where appropriate, they shall include prevocational and vocational programs.

(3) The program shall encourage the participation of the clients in the daily operation of the setting in development of treatment and rehabilitation planning and evaluation.

(4) Participation in any element of the system shall not preclude the involvement of clients in individual therapy. Individual therapists of clients shall, where possible, be directly involved in the development and implementation of a treatment plan, including medication and day program decisions.

(d) Coordination:

The programs shall demonstrate specific linkages with one another, and with the general treatment and social service system, as a whole. These connections should not be limited to the mental health system, but should include, whenever possible, community resources utilized by the general population.

SEC. 3. Section 5454 of the Welfare and Institutions Code is amended to read:

5454. The system shall be designed to coordinate with current elements of local agencies. Counties shall, in applying, demonstrate how they will coordinate their new system elements with in-place elements. The counties shall in particular demonstrate capacity to provide the following elements in the existing system: (1) a crisis unit for evaluation, diagnosis, and disposition planning for persons in psychiatric crisis; and (2) a case management system in which the case manager serves as a coordinator to assure the cooperative operation of the various elements of the system and to act as an active advocate for the clients in the system. The case manager shall assure that each client receives the appropriate type of service. The case manager shall meet regularly with clients, work closely with program staff and serve as an advocate. The case manager shall work

directly with the client and the system to assure continuity of care between the service elements of the system. All case managers shall be under the direct supervision of a psychiatrist, psychologist or a social worker with a master's degree.

Counties may apply for funds for these elements as part of the application procedure for this system, if additional capability in these elements is necessary in order to implement additional community residential treatment system programs, and to assure the appropriate functioning of that system of programs. In all cases, augmentation of crisis unit or case management services shall be related to the development of additional residential elements of the system.

SEC. 4. Section 5460 of the Welfare and Institutions Code is amended to read:

5460. By December 31, 1980, the State Department of Mental Health shall conduct or contract for the evaluation of community residential treatment systems. The evaluation report shall be developed in consultation with counties receiving funds under this chapter. The evaluation report shall then be transmitted to the Legislature.

SEC. 5. Section 5461 of the Welfare and Institutions Code is amended to read:

5461. In order to avoid duplication of services, as well as duplication of planning, the approved system programs shall show that they have been incorporated into the county Short-Doyle plan developed for the year the system is to be implemented. Grants for the system will be made to the counties, who shall, in turn, develop contracts for the service elements as outlined in the proposal.

No local financial participation for first year funding received pursuant to this chapter shall be required. In the second and subsequent years, the percentage of local financial participation required shall be identical to the percentage of local financial participation required for local Short-Doyle programs.

SEC. 6. Section 5461.1 is added to the Welfare and Institutions Code, to read:

5461.1. In developing contracts for service elements under Section 5461, each county shall utilize available resources and facilities within the county to the maximum extent possible prior to contracting with other providers.

SEC. 7 Section 5462.1 is added to the Welfare and Institutions Code, to read:

5462.1. The Director of the Department of Mental Health shall appoint three individuals with expertise in the provision of services to children and adolescents to assist the advisory committee in screening proposals for services to children and adolescents. At least one of these members shall be a parent of a child or adolescent who is or has been a recipient of mental health services.

SEC. 8. Section 5465 is added to the Welfare and Institutions Code, to read:

5465. It is the intent of the Legislature that programs serving children and adolescents shall be established under this chapter. Such programs shall follow the guidelines and principles set forth in this chapter and in addition shall meet the following criteria unique to the population to be served:

(a) The programs shall, to the maximum extent feasible, be designed so as to reduce the disruption and promote the reintegration of the family unit of which the child is a part.

(b) The programs shall have an education focus and shall demonstrate specific linkage with community education resources.

(c) The programs shall contain a specific followup component.

SEC. 9. Section 5466 is added to the Welfare and Institutions Code, to read:

5466. An interdepartmental coordinating group to be chaired by the Secretary of the Health and Welfare Agency shall be established to include at minimum the Directors of the State Departments of Mental Health, Rehabilitation, Transportation, Housing and Community Development, and Social Services and the Superintendent of Public Instruction or a designee of each of these officers, for coordinating the existing and ongoing efforts of each state department to enhance the effectiveness of the programs developed under this chapter and for advising the Legislature on future program development.

CHAPTER 897

An act to amend Sections 17206, 17207, 17535.5, and 17536 of, and to add Sections 17201.5 and 17506.5 to, the Business and Professions Code, relating to consumer affairs, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 17201.5 is added to the Business and Professions Code, to read:

17201.5. As used in this chapter:

(a) "Board within the Department of Consumer Affairs" includes any commission, bureau, division, or other similarly constituted agency within the Department of Consumer Affairs.

(b) "Local consumer affairs agency" means and includes any city or county body which primarily provides consumer protection services.

SEC. 2. Section 17206 of the Business and Professions Code is amended to read:

17206. (a) Any person who violates any provision of this chapter

shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund. If brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(c) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

SEC. 3. Section 17207 of the Business and Professions Code is amended to read:

17207. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars ($6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, or any city attorney in any court of competent

jurisdiction within his jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

SEC. 4. Section 17506.5 is added to the Business and Professions Code, to read:

17506.5. As used in this chapter:

(a) "Board within the Department of Consumer Affairs" includes any commission, bureau, division, or other similarly constituted agency within the Department of Consumer Affairs.

(b) "Local consumer affairs agency" means and includes any city or county body which primarily provides consumer protection services.

SEC. 5. Section 17535.5 of the Business and Professions Code is amended to read:

17535.5. (a) Any person who intentionally violates any injunction issued pursuant to Section 17535 shall be liable for a civil penalty not to exceed six thousand dollars ($6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities and net worth of the person,

whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction within his jurisdiction without regard to the county from which the original injunction was issued An action brought pursuant to this section to recover such civil penalties shall take special precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

SEC. 6. Section 17536 of the Business and Professions Code is amended to read:

17536. (a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of

the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality which funds the local agency.

(d) As applied to the penalties for acts in violation of Section 17530, the remedies provided by this section and Section 17534 are mutually exclusive.

CHAPTER 898

An act to amend Section 146 5 of, to repeal and add Section 148 of, and to repeal Section 147 of, the Streets and Highways Code, relating to transit facilities

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 146 5 of the Streets and Highways Code, as amended by Chapter 161 of the Statutes of 1979, is amended to read:

146 5 The department may construct, maintain, and operate fringe and transportation corridor parking facilities along the state highway system when such facilities would reduce motor vehicle congestion or improve highway safety For the purposes of this code, such facilities shall be considered as part of the state highway and the department shall acquire the right-of-way necessary for such facilities in accordance with all of the laws and procedures applicable to other state highway projects

The department may enter into agreements with other public agencies for the joint financing of such facilities. The rights and obligations of the department and other public agencies with respect to such fringe and transportation corridor parking facilities shall be determined by agreement.

Facilities estimated to cost thirty thousand dollars ($30,000) or more and located in an urbanized area shall be limited to such

facilities included by transportation planning agencies in a regional transportation improvement program prepared pursuant to Section 14527 of the Government Code. Not more than two million dollars ($2,000,000) of the state funds appropriated by the Legislature each year for state highway construction may be used for the purpose of constructing such facilities. In addition, for projects estimated to cost thirty thousand dollars ($30,000) or more, the state funds may be used only to match federal or local funds, or both.

SEC. 2. Section 147 of the Streets and Highways Code is repealed.

SEC. 3. Section 148 of the Streets and Highways Code is repealed.

SEC. 4. Section 148 is added to the Streets and Highways Code, to read:

148. The department may construct and maintain transit related highway facilities along the state highway system. Such facilities may include, but are not limited to, bus turn-outs, passenger loading areas, passenger benches and shelters, and special traffic control devices. For purposes of this code, such facilities shall be considered as part of the highway.

Facilities estimated to cost thirty thousand dollars ($30,000) or more and located in an urbanized area shall be limited to such facilities included by transportation planning agencies in a regional transportation improvement program prepared pursuant to Section 14527 of the Government Code. Not more than one million dollars ($1,000,000) of the state funds appropriated by the Legislature each year for state highway construction may be used for the purpose of constructing such facilities. In addition, for projects estimated to cost thirty thousand dollars ($30,000) or more, the state funds may be used only to match federal or local funds, or both.

CHAPTER 899

An act to amend Section 30522 of, and to add Section 30523 to, the Public Resources Code, relating to coastal resources

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 30522 of the Public Resources Code is amended to read:

30522. Nothing in this chapter shall permit the commission to certify a local coastal program which provides for a lesser degree of environmental protection than that provided by the plans and policies of any state regulatory agency that are formally adopted by such agency, are used in the regulatory program of such agency, and are legally enforceable.

SEC. 2 Section 30523 is added to the Public Resources Code, to

read:

30523 It is the intent of the Legislature that local coastal programs certified by the commission should be sufficiently specific to meet the requirements of Section 30108.5, but not so detailed as to require amendment and commission review for minor changes, or to discourage the assumption by local governments of postcertification authority which ensures and implements effective protection of coastal resources. The Legislature also recognizes that the applicable policies and the level of specificity required to ensure coastal resource protection may differ between areas on or near the shoreline and inland areas.

CHAPTER 900

An act to amend Sections 11825, 11828, and 11850 of, and to add Section 11908.1 and Article 7 (commencing with Section 11950) to Chapter 3 of Division 6 of, the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 11825 of the Public Utilities Code is amended to read:

11825. Not more than 95 days prior to the election, upon request, the county clerk of the principal county containing the majority of the population of the ward from which the candidate is seeking election shall issue nomination papers and all other forms required for nomination to the office of director.

SEC 2. 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 county clerk 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 or she is a candidate The county clerk shall imprint a stamp on the first page of each section of the nomination papers which reads "Official Filing Form," and shall affix his or her signature The county clerk shall keep a list containing the name and address of each candidate, the office for which he or she 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. Each section of the nomination papers shall bear the name of a county and only qualified voters of that county shall sign such section. 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 county clerk of the principal county containing the majority of the population of the ward from which the candidate is seeking election not more than 90 nor less than 74 days before the date of the election and shall be examined by the county clerk. If nomination papers for an incumbent director are not filed by 5 p.m. on the 74th day before the election, the voters shall have until 5 p.m. on the 69th day before the election to nominate candidates other than the incumbent for such office. As soon as possible under the circumstances, the county clerk shall determine the number of valid signatures. If there are less than 50 valid signatures, the county clerk 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 with the county clerk with whom he or she filed the nomination papers. The county clerk shall certify the names of all candidates at least 62 days prior to the date of the election so that their names may be placed upon the ballot.

SEC. 3. Section 11850 of the Public Utilities Code is amended to read:

11850. (a) Notwithstanding any other provision of this chapter, in any district formed prior to January 1, 1974, and containing a population of 1,000,000 or more on such date, the number of directors on the district board shall be increased from five to seven as provided in this article.

(b) In any district to which subdivision (a) is applicable and in any district which has owned and operated an electric distribution system for at least eight years and which has a population of 250,000 or more, candidates for the office of director shall be elected by the voters of the ward each represents and shall not be voted upon at large. In any such district nomination papers may be circulated only within the ward from which the candidate is to be elected, and shall be signed either by 1 percent of the voters within the ward or by 50 voters whichever is the lesser number but in no event by more than 100 voters within the ward. In any such district circulators must be residents of the ward in which they seek signatures and may obtain signatures only from registered voters residing within that ward.

SEC. 4. Section 11908.1 is added to the Public Utilities Code, to read:

11908.1. Notwithstanding Section 11908, each director of a board

having seven directors may receive compensation in an amount not to exceed fifty dollars ($50) per day for each day's attendance at public meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of four days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board.

SEC 5. Article 7 (commencing with Section 11950) is added to Chapter 3 of Division 6 of the Public Utilities Code, to read:

Article 7. Initiative and Referendum

11950. The initiative and referendum provisions of Chapter 4 (commencing with Section 5150) of Division 5 of the Elections Code shall apply to every municipal utility district.

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 revenue is provided in Section 23524 of the Elections Code to cover such costs

---

CHAPTER 901

An act to add Section 10751 to the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 10751 is added to the Welfare and Institutions Code, to read.

10751 The department, with the cooperation of the State Department of Social Services and the Employment Development Department, shall develop a homemaker and home health aid training and employment program for recipients under the Aid to Families with Dependent Children Program for purposes of applying for any available federal funds.

The departments shall undertake the program development only if federal legislation making federal funds available is enacted, and upon receiving federal funds, the department shall carry out the program by establishing demonstration projects. The Employment Development Department shall develop and supervise the training part of the program

SEC. 2 The State Department of Social Services shall extend until June 30, 1980, its contracts with the organizations which provided comprehensive social services to the deaf through

demonstration projects during the 1978–79 fiscal year. The department shall evaluate the demonstration projects and report the findings of the evaluation to the Legislature no later than March 15, 1980

SEC. 3. The sum of one million three hundred seventy-three thousand four hundred twenty-six dollars ($1,373,426) is hereby appropriated from the General Fund to the State Department of Social Services to fund the demonstration projects authorized by Section 2 of this act for the period November 15, 1979, to June 30, 1980

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 additional funding for demonstration projects for the deaf before available funds are exhausted on November 15, 1979, it is necessary for this act to take effect immediately.

CHAPTER 902

An act to add Section 225.3 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. The Legislature finds and declares, with respect to Section 2 of this act, as follows·

The decision of the court in Zee Toys, Inc. v County of Los Angeles, 85 Cal. App. 3d 763, has become final after a denial of a petition for hearing by the California Supreme Court. That decision held that the provisions of Section 225 of the Revenue and Taxation Code, which exempted certain personal property held for transshipment for ultimate sale outside the state, were in violation of the commerce clause (Art. I, Sec 8, Clause 3) of the United States Constitution

The retroactive application of the Zee Toys case by way of escaped assessment on property which qualified for and received the transshipment exemption in tax years prior to the decision would be unfair and would result in economic hardship, inequities, and injustices. Importers and exporters relied upon the transshipment exemption in the conduct of their businesses and could not reasonably have foreseen that the statute creating the exemption would be invalidated by the courts. The imposition of escaped assessments will cause many importers and exporters to become

insolvent, relocate, or go out of business, and will seriously and adversely affect California businesses engaged in, or associated with, the importing and exporting of goods; thus, resulting in a further deterioration of the labor market in California.

Public policy will be served by preventing the disruptive and unjust effect of applying the Zee Toys case retroactively. Prohibiting escaped assessments will not deprive local government of taxes previously budgeted or collected, nor are retroactive escape assessments necessary or effective in providing redress to the federal government for past interference with its exclusive right to regulate interstate and foreign commerce.

Therefore, it is the purpose of this act to limit the retroactive application of the Zee Toys decision by prohibiting escaped assessments on property which qualified for and received the inventory exemption in the tax years commencing prior to the date of the Zee Toys decision.

SEC 2. Section 225.3 is added to the Revenue and Taxation Code, to read

225.3. Subject to the provisions of Section 225.2, no escaped assessments shall be made with respect to personal property which qualified for, and received, the transshipment exemption pursuant to Sections 225 and 253.10 for tax years prior to the 1979–80 tax year.

Any such escaped assessments heretofore levied are void.

SEC 3 If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable

SEC. 4. Notwithstanding Section 2229 of the Revenue and Taxation Code, there shall be no reimbursement to any local agency or school district by reason of the operation of this act, since no such agency or district will incur an actual loss of revenue because such section deals with a type of property that was previously exempt or immune under the laws of the United States or California on January 1, 1973

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 the necessity are

The prohibition of escaped assessments contained herein should be effective in time to prevent such assessments from being added to the 1979–80 assesssment roll.

CHAPTER 903

An act to add Article 3 5 (commencing with Section 50075) to Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Article 3.5 (commencing with Section 50075) is added to Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code, to read:

Article 3 5 Voter-Approved Special Taxes

50075. It is the intent of the Legislature to provide all cities and counties with the authority to impose special taxes, subject to the provisions of Article XIII A of the California Constitution

50076 As used in this article, "special tax" shall not include any fee which does not exceed the reasonable cost of providing the service or regulatory activity for which the fee is charged and which is not levied for general revenue purposes.

50077 (a) The legislative body of any city or county may, following notice and public hearing, propose by ordinance the adoption of a special tax. The ordinance shall include the type of tax and rate of tax to be levied, the method of collection, and the dates upon which an election shall be held to approve the levy of such tax. Such proposition shall be submitted to the voters of the city or county and, upon the approval of two-thirds of the voters voting upon such proposition, the city or county may levy such tax.

(b) The legislative body of a city may provide for the collection of the special tax in the same manner and subject to the same penalty as, or with, other charges and taxes fixed and collected by the city, or, by agreement with the county, by the county on behalf of the city If such special taxes are collected by the county on behalf of the city, the county may deduct its reasonable costs incurred for such service before remittal of the balance to the city.

SEC 19 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are·

In order that entities of local government may have the authority to levy taxes, as provided by this act, for the 1979–80 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 904

An act to amend Section 1463.11 of the Penal Code and to add Section 28766.6 to the Public Utilities Code, relating to the San Francisco Bay Area Rapid Transit District

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979.]

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 or Section 28766 6 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 district 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 6 is added to the Public Utilities Code, to read.

28766 6 Violation of any ordinance, rule, or regulation enacted by the board relating to the evasion of the payment of a fare in any transit facility owned or controlled by the district shall be an infraction punishable by a fine not exceeding fifty dollars ($50)

SEC 3 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1

of that code

CHAPTER 905

An act to amend Section 23 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944, Second Extraordinary Session), relating to the Ventura County Flood Control District.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 23 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944, Second Extraordinary Session) is amended to read:

Sec 23 All contracts for any improvement or unit of work except as hereinafter provided estimated to cost in excess of ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in the manner hereinafter provided. The said board of supervisors of said district shall advertise by three (3) insertions in a daily newspaper of general circulation or two (2) insertions in a weekly newspaper of general circulation printed and published in said district inviting sealed proposals for the construction of, the improvement or work before any contract shall be made therefor, and may let by contract separately any part of said work or improvement The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material in connection therewith, such bonds to contain the terms and conditions set forth in Chapter 3 of Division 5 of Title 1 of the Government Code and to be subject to the provisions of that chapter. The board shall also have the right to reject any and all bids. In the event all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of such work does not exceed the sum of ten thousand dollars ($10,000), or the work consists of channel protection, or maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board of supervisors may without advertising for bids therefor have said work done by force account or negotiated contract The district shall have the power to purchase in the open market without advertising for bids therefor, materials, supplies, equipment and other personal property for use in any work therewith either under contract or by force account where the costs thereof does not exceed ten thousand dollars ($10,000) It shall be the duty of the purchasing agent of Ventura County, as the ex officio purchasing agent of the Ventura County Flood Control District,

unless otherwise ordered by the board of supervisors, to purchase for the district all materials, supplies, equipment and other personal property necessary to carry out the purposes of this act, and to engage independent contractors to perform sundry services for the district, where the aggregate cost of such work, exclusive of materials to be furnished by the district, does not exceed ten thousand dollars ($10,000). The purchasing agent shall make all such purchases and contracts upon proper requisition therefor, signed by the engineer-manager of the district, or his authorized representative.

If the work consists of the maintenance or alteration of existing facilities, including electrical, painting, and roofing in connection therewith, and if the cost of labor and materials for such work according to the engineer's estimate will exceed five thousand dollars ($5,000), and if the work is not of the type of work referred to in this section, such maintenance and alteration work shall be performed under a contract or contracts which shall be let to the lowest responsible bidder or bidders in the manner described in this section

---

CHAPTER 906

An act to amend Sections 41020 and 41030 of the Revenue and Taxation Code, relating to taxes in support of the emergency telephone system for public health and safety, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 41020 of the Revenue and Taxation Code is amended to read

41020 A surcharge is hereby imposed on amounts paid by every person in the state for intrastate telephone communication service in this state commencing on July 1, 1977.

The surcharge imposed shall be at the rate of one-half of 1 percent of the charges made for such services to and including November 1, 1982, at such a rate as shall be fixed pursuant to Article 2 of the chapter thereafter.

The surcharge shall be paid by the service user as hereinafter provided

SEC 2. Section 41030 of the Revenue and Taxation Code is amended to read

41030 Following approval of the Budget Act each year, beginning with the Budget Act for the 1982–83 fiscal year, the board shall determine, on the basis of expenditures authorized in the Budget Act to be made from the "State Emergency Telephone

Number Account" in the General Fund and its estimate of the charges for intrastate telephone communications services to which the surcharge will apply, a surcharge rate that it estimates will produce sufficient revenues to fund the expenditures authorized. Such rate shall not exceed three-quarters of 1 percent.

SEC 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 surcharge rate is fixed at one-half of 1 percent of charges made for intrastate telephone communications until November 1, 1979. In order for the rate to remain at one-half of 1 percent it is necessary for this act to take effect immediately.

CHAPTER 907

An act to amend Sections 2611, 2636 5, 2660, and 4227 of, and to add Section 2620.3 to, the Business and Professions Code, relating to healing arts

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 2611 of the Business and Professions Code is amended to read

2611 The committee shall hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles and San Francisco. The committee may convene from time to time until its business is concluded. Special meetings of the committee may be held at such time and place as the committee may designate.

SEC. 2 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 may be required to pass an oral examination given by the examining committee and file a statement of past work activity.

(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. 3 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.

(*l*) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or

duties of a physical therapist

SEC 4 Section 2620.3 is added to the Business and Professions Code, to read·

2620 3 A physical therapist licensed pursuant to this chapter may apply topical medications as part of the practice of physical therapy as defined in Section 2620 if he or she complies with regulations duly adopted by the examining committee pursuant to this section and the Administrative Procedure Act The examining committee shall adopt regulations implementing this section after meeting and conferring with the Division of Allied Health Professions and the California State Board of Pharmacy specifying those topical medications applicable to the practice of physical therapy and protocols for their use. Nothing in this section shall be construed to authorize a physical therapist to prescribe medications.

SEC. 5 Section 4227 of the Business and Professions Code is amended to read

4227 (a) No person shall furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429 70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429 70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429 70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code

(b) The provisions of this section do not apply to the furnishing of any dangerous drug by a manufacturer or wholesaler or pharmacy to each other or to a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429 70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429 70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429 70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to Section 4050 7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations promulgated by the board The board shall promulgate such regulations as are necessary to insure the safe distribution of such drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following vendor licensing, records and labeling, patient receipts, patient training, report records, specific product

and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation promulgated pursuant to this subdivision shall be liable upon order of the board to surrender his personal license. These penalties shall be in addition to penalties which may be imposed pursuant to Sections 4389 and 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of such drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a renal dialysis center accredited by the State Department of Health Services. The physician and surgeon prescribing the hemodialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed such program.

(e) A registered pharmacist may furnish a dangerous drug authorized for use pursuant to Section 2620.3 to a physical therapist or may furnish a topical pharmaceutical agent authorized for use pursuant to subdivision (e) of Section 3041 to an optometrist. A record containing the date, name and address of the buyer, and name and quantity of the drug shall be maintained. The provisions of this subdivision shall not be construed to authorize the furnishing of a controlled substance as defined in subdivision (b) of Section 11007 of the Health and Safety Code.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 908

An act to amend Section 1952 3 of the Code of Civil Procedure, relating to exhibits and depositions.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 1952.3 of the Code of Civil Procedure is amended to read:

1952.3 Notwithstanding any other provision of the law, the court, on its own motion, may order destroyed or otherwise disposed of any exhibit or deposition introduced in the trial of a civil action or

proceeding or filed in such action or proceeding which, if appeal has not been taken from the decision of the court in the action or proceeding, remains in the custody of the court or clerk five years after time for appeal has expired, or, if appeal has been taken, remains in the custody of the court or clerk five years after final determination thereof or which remains in the custody of the court or clerk for a period of five years after:

(a) A motion for a new trial has been granted and a memorandum to set the case for trial has not been filed or a motion to set for trial has not been made within such five years,

(b) The filing of the remittitur where the action or proceeding, after appeal, has been remanded to the trial court for a new trial and the same has not been brought to trial within five years from the date of filing the remittitur,

(c) The dismissal of such action or proceeding.

In addition, the court on its own motion may also order destroyed or otherwise disposed of any such exhibit or deposition which remains in the custody of the court or clerk for a period of 10 years after the introduction or filing of the action or proceeding where in the discretion of the court the same should be destroyed or otherwise disposed of

The order shall be entered in the register of actions of each case in which any such order is made.

No exhibit or deposition shall be ordered destroyed or otherwise disposed of pursuant to the provisions of this section where a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit or deposition for a stated time, but not to exceed three years. Such exhibit or deposition may be destroyed after such time unless another such notice is filed.

Any sealed file shall be retained for at least an additional two years past the date on which destruction would otherwise be authorized pursuant to this section.

CHAPTER 909

An act to amend Section 5008 of the Public Resources Code, and to amend Sections 22651, 22655, 22656, 22702, and 22855 of the Vehicle Code, relating to the state park system.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 5008 of the Public Resources Code is amended to read.

5008 The department shall protect the state park system from damage and preserve the peace therein

The director may designate any officer or employee of the department a peace officer for the state park system. The primary duties of any such peace officer shall be the enforcement of the rules and regulations of the department, the provisions of Section 267 and Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the Department of Navigation and Ocean Development, and the provisions of Chapter 2 (commencing with Section 9850) of Division 3 5 of the Vehicle Code, and to arrest persons for the commission of public offenses within the state park system The authority and powers of any such peace officer shall be limited to those conferred by law upon peace officers listed in Section 830.3 of the Penal Code

Any person who violates the rules and regulations established by the department is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding 90 days, or by a fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment, except that at the time a particular action is commenced, the judge may, considering the recommendation of the prosecuting attorney, reduce the charged offense from a misdemeanor to an infraction. Any person convicted of such offense after such a reduction shall be punished by a fine of not less than five dollars ($5) nor more than five hundred dollars ($500)

SEC 2. Section 22651 of the Vehicle Code is amended to read

22651. Any member of the California Highway Patrol, any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located; any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located; any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located; any police officer appointed or employed by the board of directors of a regional park district on or about lands, grounds, or properties owned, operated, or administered by the regional park district on or in which a vehicle is located; or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation on or in which a vehicle is located, may remove a vehicle from a highway under any of the following circumstances

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move such vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move such vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are

alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal

SEC 2 3 Section 22651 of the Vehicle Code is amended to read

22651. Any member of the California Highway Patrol, any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located, any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located, any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located, or any police officer appointed or employed by the board of directors of a

regional park district on or about lands, grounds, or properties owned, operated, or administered by the regional park district on or in which a vehicle is located; any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation on or in which a vehicle is located; a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or city policeman as provided by Section 830.6 of the Penal Code; or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code; may remove a vehicle from a highway under any of the following circumstances.

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move such vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move such vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located

and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17 In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles No vehicle may be removed unless signs are posted giving notice of the removal

SEC 3 Section 22655 of the Vehicle Code is amended to read

22655 When any member of the California Highway Patrol, any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, any regularly employed and salaried officer of the California State Police

on or about state grounds or properties; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California; any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges; any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district; or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation, has reasonable cause to believe that a motor vehicle on a highway has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway for the purpose of inspection. Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

SEC. 3.2. Section 22655 of the Vehicle Code is amended to read:

22655. (a) When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830 2 of the Penal Code, has reasonable cause to believe that a motor

vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or private property for the purpose of inspection

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway or private property upon demand of the owner When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC 3.3 Section 22655 of the Vehicle Code is amended to read

22655. When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830 6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830 2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway for the purpose of inspection. Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway upon

demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

SEC. 3 4 Section 22655 of the Vehicle Code is amended to read·

22655 (a) When any member of the California Highway Patrol, or any regularly employed and salaried officer of a police department in a city, or sheriff's department authorized to enforce the provisions of this code pursuant to Section 26613 of the Government Code, or any regularly employed and salaried officer of the California State Police on or about state grounds or properties, or any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California, or any regularly employed and salaried officer of a California state university and college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, or any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by the regional park district, or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC. 4. Section 22656 of the Vehicle Code is amended to read.

22656. Any member of the California Highway Patrol; any regularly employed and salaried officer of a railroad, commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code; any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried

officer of the California State Police on or about state grounds or properties on or in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located; any regularly employed and salaried officer of a California state university or college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located; any regularly employed and salaried officer of a transit district security force on or about parking lots owned by the transit district or in or about other grounds or properties owned, operated, controlled, or administered by the board of directors of the transit district on or in which a vehicle is located; any police officer appointed or employed by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by such regional park district on or in which a vehicle is located; or any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Parks and Recreation on or in which a vehicle is located, may remove a vehicle from a railroad right-of-way if the vehicle is parked upon any railroad track or within 7½ feet of the nearest rail.

SEC. 4 5 Section 22656 of the Vehicle Code is amended to read:

22656. Any member of the California Highway Patrol; any regularly employed and salaried officer of a railroad, commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code; any regularly employed and salaried deputy of the sheriff's office of a county in which a vehicle is located; any regularly employed and salaried officer of a police department in a city in which a vehicle is located; any regularly employed and salaried officer of the California State Police on or about state grounds or properties on or in which a vehicle is located; any regularly employed and salaried officer of the University of California Police Department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California on or in which a vehicle is located; any regularly employed and salaried officer of a California state university or college police department on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges on or in which a vehicle is located; any regularly employed and salaried officer of a transit district security force on or about parking lots owned by the transit district or in or about other grounds or properties owned, operated, controlled, or administered by the board of directors of the transit district on or in which a vehicle is located; any police officer appointed or employed

by the board of directors of a regional park district on or about lands or properties owned, operated, or administered by such regional park district on or in which a vehicle is located; any peace officer appointed or employed by the Department of Parks and Recreation on or about lands, grounds, or properties owned, operated, controlled, or administered by the Department of Recreation on or in which a vehicle is located; a qualified person deputized or appointed by proper authority as a reserve deputy sheriff or a city policeman as provided by Section 830.6 of the Penal Code, or any member of the California State Police as identified in subdivision (b) of Section 830.2 of the Penal Code, may remove a vehicle from a railroad right-of-way if the vehicle is parked upon any railroad track or within 7½ feet of the nearest rail.

SEC 5. Section 22702 of the Vehicle Code is amended to read.

22702. (a) Any member of the California Highway Patrol or any regularly employed and salaried deputy sheriff or other employee of the county designated to perform this function by the board of supervisors in which a vehicle is located or any regularly employed and salaried police officer or other employee of the city designated to perform this function by the city council, in which a vehicle is located who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property.

(b) Any member of the California State Police who has reasonable grounds to believe that a vehicle has been abandoned upon property owned by the state, or rented or leased from others by the state, or property of a district agricultural association as to which the California State Police is providing policing services, may remove the vehicle from such property

(c) Any regularly employed and salaried officer or other employee of the University of California Police Department who has reasonable grounds to believe that a vehicle has been abandoned on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California may remove the vehicle from such property.

(d) Any policeman appointed or employed by the board of directors of a regional park district who has reasonable grounds to believe that a vehicle has been abandoned upon property owned by the regional park district or rented or leased from others by the regional park district, may remove the vehicle from such property.

(e) Any regularly employed and salaried officer or other employee of a California state university or college police department who has reasonable grounds to believe that a vehicle has been abandoned on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, may remove the vehicle from such property.

(f) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle

from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a member of the California Highway Patrol or any regularly employed and salaried deputy or other employee of the sheriff's office of a county in which such vehicle is located or any regularly employed and salaried officer or other employee of a police department in a city in which such vehicle is located that such vehicle is abandoned.

(g) Any regularly employed and salaried officer of a transit district security force who has reasonable grounds to believe that a vehicle has been abandoned on property owned by the transit district or rented or leased from others by the transit district, may remove the vehicle from such property.

(h) Any peace officer appointed or employed by the Department of Parks and Recreation who has reasonable grounds to believe that a vehicle has been abandoned on or about property owned, operated, controlled, or administered by the Department of Parks and Recreation, may remove the vehicle from such property.

(i) The public agency employing the officer shall make an appraisal of any such vehicle either prior to or within five days after removal

(j) A county or city employee, other than an employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 5 5 Section 22702 of the Vehicle Code is amended to read:

22702. (a) Any member of the California Highway Patrol or any regularly employed and salaried deputy sheriff or other employee of the county designated to perform this function by the board of supervisors in which a vehicle is located or any regularly employed and salaried police officer or other employee of the city designated to perform this function by the city council, or a qualified person deputized or appointed by the proper authority as a reserve deputy sheriff or city policeman as provided by Section 830.6 of the Penal Code, in which a vehicle is located who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property.

(b) Any member of the California State Police who has reasonable grounds to believe that a vehicle has been abandoned upon property owned by the state, or rented or leased from others by the state, or property of a district agricultural association as to which the California State Police is providing policing services, may remove the vehicle from such property.

(c) Any regularly employed and salaried officer or other employee of the University of California Police Department who has reasonable grounds to believe that a vehicle has been abandoned on or about a campus or in or about other grounds or properties owned,

operated, controlled, or administered by the Regents of the University of California may remove the vehicle from such property.

(d) Any policeman appointed or employed by the board of directors of a regional park district who has reasonable grounds to believe that a vehicle has been abandoned upon property owned by the regional park district or rented or leased from others by the regional park district, may remove the vehicle from such property.

(e) Any regularly employed and salaried officer or other employee of a California state university or college police department who has reasonable grounds to believe that a vehicle has been abandoned on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, may remove the vehicle from such property.

(f) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a member of the California Highway Patrol or any regularly employed and salaried deputy or other employee of the sheriff's office, or a qualified person deputized or appointed by proper authority as a reserve deputy sheriff, of a county in which such vehicle is located or any regularly employed and salaried officer or other employee, or a qualified person deputized or appointed by proper authority as a city policeman as provided by Section 830.6 of the Penal Code, of a police department in a city in which such vehicle is located that such vehicle is abandoned.

(g) Any regularly employed and salaried officer of a transit district security force who has reasonable grounds to believe that a vehicle has been abandoned on property owned by the transit district or rented or leased from others by the transit district, may remove the vehicle from such property.

(h) Any peace officer appointed or employed by the Department of Parks and Recreation who has reasonable grounds to believe that a vehicle has been abandoned on or about property owned, operated, controlled, or administered by the Department of Parks and Recreation, may remove the vehicle from such property.

(i) The public agency employing the officer shall make an appraisal of any such vehicle either prior to or within five days after removal.

(j) A county or city employee, other than an employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 6. Section 22855 of the Vehicle Code is amended to read

22855. The following persons shall have the authority to make appraisals of the value of vehicles for purposes of this chapter, subject

to the conditions stated in this chapter:

(a) Any member of the California Highway Patrol designated by the commissioner.

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county.

(c) Any regularly employed and salaried police officer or other employee designated by the chief of police of any city.

(d) Any officer or employee of the Department of Motor Vehicles designated by the director of said department.

(e) Any member of the California State Police designated by the chief thereof.

(f) Any regularly employed and salaried police officer or other employee of the University of California Police Department designated by the chief thereof.

(g) Any regularly salaried employee of a city, county, or city and county designated by a board of supervisors or a city council pursuant to subdivision (a) of Section 22702.

(h) Any regularly employed and salaried police officer or other employee of a California State University and College Police Department designated by the chief thereof.

(i) Any regularly employed and salaried security officer or other employee of a transit district security force designated by the chief thereof

(j) Any regularly employed and salaried peace officer or other employee of the Department of Parks and Recreation designated by the director of such department.

SEC 7 It is the intent of the Legislature that if this bill and Senate Bill 380 or Assembly Bill 1276, or both, are chaptered and become effective January 1, 1980, each of the bills amends Section 22655 of the Vehicle 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 380 are both chaptered and become effective January 1, 1980, both bills amend Section 22655 of the Vehicle Code, but Assembly Bill 1276 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 380, the amendments proposed by both bills shall be given effect and incorporated in Section 22655 in the form set forth in Section 3.4 of this act. Therefore, if this bill and Senate Bill 380 are both chaptered and become effective January 1, 1980, both bills amend Section 22655, this bill is chaptered after Senate Bill 380, and Assembly Bill 1276 is not chaptered or as chaptered does not amend that section, Section 3.4 of this act shall be operative and Sections 3, 3.2, and 3.3 of this act shall not become operative.

(2) If this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both bills amend Section 22655 of the Vehicle Code, but Senate Bill 380 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 1276, the amendments proposed by both bills

shall be given effect and incorporated in Section 22655 in the form set forth in Section 3 3 of this act. Therefore, if this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both bills amend Section 22655, this bill is chaptered after Assembly Bill 1276, and Senate Bill 380 is not chaptered or as chaptered does not amend that section, Section 3 3 shall be operative and Sections 3, 3.2, and 3.4 of this act shall not become operative.

(3) If this bill and Senate Bill 380 and Assembly Bill 1276 are all chaptered and become effective January 1, 1980, all three bills amend Section 22655 of the Vehicle Code, and this bill is chaptered after Senate Bill 380 and Assembly Bill 1276, the amendments proposed by all three bills shall be given effect and incorporated in Section 22655 in the form set forth in Section 3.2 of this act. Therefore, if this bill and Senate Bill 380 and Assembly Bill 1276 are all chaptered and become effective January 1, 1980, all three bills amend Section 22655 of the Vehicle Code. and this bill is chaptered after Senate Bill 380 and Assembly Bill 1276, Section 3.2 of this act shall be operative and Sections 3, 3.3, and 3.4 of this act shall not become operative.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both bills amend Section 22651 of the Vehicle Code, and this bill is chaptered after Assembly Bill 1276, that the amendments to Section 22651 proposed by both bills be given effect and incorporated in Section 22651 in the form set forth in Section 2.3 of this act Therefore, Section 2 3 of this act shall become operative only if this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both amend Section 22651, and this bill is chaptered after Assembly Bill 1276, in which case Section 2 of this act shall not become operative.

SEC. 9. It is the intent of the Legislature, if this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both bills amend Section 22656 of the Vehicle Code, and this bill is chaptered after Assembly Bill 1276, that the amendments to Section 22656 proposed by both bills be given effect and incorporated in Section 22656 in the form set forth in Section 4 5 of this act. Therefore, Section 4 5 of this act shall become operative only if this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both amend Section 22656, and this bill is chaptered after Assembly Bill 1276, in which case Section 4 of this act shall not become operative

SEC. 10 It is the intent of the Legislature, if this bill and Assembly Bill 1276 are both chaptered and become effective January 1, 1980, both bills amend Section 22702 of the Vehicle Code, and this bill is chaptered after Assembly Bill 1276, that the amendments to Section 22702 proposed by both bills be given effect and incorporated in Section 22702 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 1276 are both chaptered and become effective January 1, 1980, both amend Section 22702, and this bill is chaptered

after Assembly Bill 1276, in which case Section 5 of this act shall not become operative.

CHAPTER 910

An act to amend Sections 4502 and 4574 of, and to add Section 12404 to, the Penal Code, relating to tear gas

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 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, or any tear gas or tear gas weapon, 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. 2. Section 4574 of the Penal Code is amended to read:

4574. (a) 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, explosive, tear gas or tear gas weapon, is guilty of a felony and punishable by imprisonment in the state prison for two, three, or four years.

(b) Except as provided in subdivision (a), any person who knowingly brings or sends into such places any tear gas or tear gas weapons which results in the release of such tear gas or use of such weapon is guilty of a felony and punishable by imprisonment in the state prison for two, three, or four years.

(c) Except as provided in subdivision (a), any person who knowingly brings or sends into such places any tear gas or tear gas weapons is guilty of a misdemeanor and punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 3. Section 12404 is added to the Penal Code, to read:

12404. Nothing in this chapter authorizes the possession of tear gas or tear gas weapons in any institution described in Section 4574, or within the grounds belonging or adjacent to any such institution, except where authorized by the person in charge of such institution.

SEC. 4 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to these sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253.2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act

---

CHAPTER 911

An act to amend Sections 18013, 18040, and 18455 of, to add Sections 18014, 18015, and 18456 to, and to add Article 7 (commencing with Section 18310) to Chapter 3 of Division 7 of, the Financial Code, relating to industrial loan companies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 18013 of the Financial Code is amended to read:

18013. "Outstanding loans and obligations," as used in this division, means total outstanding loans and obligations, including lease obligations, less unearned interest or charges, unearned discount, reserve or allowance for losses, and other applicable allowances or deductions as determined by regulation of the commissioner.

SEC 2 Section 18014 is added to the Financial Code, to read:

18014. "Obligation" as used in Sections 18265, 18271, 18272, and 18343 includes lease obligations as authorized by Section 18310.

SEC 3. Section 18015 is added to the Financial Code, to read.

18015 "Lease obligation" as used in this division, means a lease contract entered into by an industrial loan company as lessor.

SEC. 4. Section 18040 of the Financial Code is amended to read:

18040. An industrial loan company may purchase, hold and convey real property for the following purposes only:

(a) Real property conveyed to it in satisfaction of debts previously contracted in the course of its business.

(b) Real property purchased at sale under judgments, decrees or mortgage foreclosures or foreclosures of or trustees' sales under deeds of trust under securities held by it. No company shall bid at any such sale a larger amount than is necessary to satisfy its debt and costs

(c) Real property necessary as premises for the transaction of its business. No company shall invest directly or indirectly an amount exceeding one-third of its paid-up capital and surplus not available for dividends as provided in Section 18319 in the lot and building in which the business of the company is carried on, leasehold improvements, furniture, fixtures, vaults, automobiles, and other personal property, necessary and proper to carry on its business.

(d) The provisions of this section shall not apply to property acquired and held for lease pursuant to Section 18310

SEC. 5. Article 7 (commencing with Section 18310) is added to Chapter 3 of Division 7 of the Financial Code, to read·

Article 7. Leasing

18310. Whenever authorized by the commissioner as provided in this article, an industrial loan company may purchase, sell, or originate lease obligations. Property acquired for lease must be of a kind or class that has been declared eligible by regulation of the commissioner.

18311. An industrial loan company shall file a written request for authorization to conduct business under Section 18310. The request shall include the following information:

(a) A description of the company's proposed plan of business.

(b) The character, business qualifications and other experience of the proposed officers and managers directing the leasing operations.

(c) Such other facts and circumstances bearing in the proposal as in the opinion of the commissioner may be relevant.

18312 The commissioner shall approve the request within 30 days after filing, unless the commissioner has ascertained that the company has failed to show:

(a) That the proposed plan of business is such that there is a reasonable promise of a successful operation.

(b) That the company has a person with the necessary business qualifications, experience or ability to direct and manage the operations of a leasing business

18313 (a) An industrial loan company shall not originate or

purchase any lease that provides for a lease term over more than the maximum terms set forth below opposite the respective net cost to the company of the property leased:

Net cost of property leased	*Maximum term*
Less than $1,500	24 months and 15 days
$1,500, but less than $2,500	36 months and 15 days
$2,500, but less than $4,000	48 months and 15 days
$4,000, but less than $6,000	60 months and 15 days
$6,000 or more	84 months and 15 days

(b) "Net cost" as used in this section means, cost to the industrial loan company to acquire the property leased, including taxes, license, and other costs as determined by regulation of the commissioner.

18314 (a) Industrial loan company shall not originate or purchase a lease contract, except motor vehicle leases, unless such lease is payable in equal or substantially equal periodic payments during the term of the lease contract. The maximum term and the maximum final payment on motor vehicle lease contracts may be determined by regulation of the commissioner.

(b) Notwithstanding the provisions of subdivision (a), a lease contract may grant the lessee an option to purchase the leased property at the expiration of the lease term.

18315. An industrial loan company shall not hold lease obligations of any one person as primary obligor in an aggregate amount due in excess of 5 percent of the unimpaired capital and surplus of the company not available for dividends as provided in Section 18319.

18316. Outstanding lease obligations shall not exceed in the aggregate 20 percent of the company's outstanding loans and obligations. The commissioner may, by written order directed to a company or by regulation, impose a limitation on the aggregate amount of lease obligations held by an industrial loan company, as the commissioner deems reasonable and necessary or advisable for the protection of the company or the public

SEC. 6. Section 18455 of the Financial Code is amended to read:

18455. An industrial loan company shall not, directly or indirectly, make any loan to, or purchase a contract or chose in action from, hold a lease obligation of, or purchase a lease contract from:

(a) A person who is an officer, or director of the industrial loan company or of its holding or affiliated company.

(b) A person who is a holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company.

(c) A person in which an officer or director of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly.

(d) A person in which the holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated

company directly or indirectly is financially interested, directly or indirectly

(e) A person who acquired such contracts directly or indirectly or through intervening assignments from a person described in subdivision (a), (b), (c), or (d)

Any officer, director or shareholder of an industrial loan company who directly or indirectly makes or procures or participates in making or procuring a loan or contract in violation of this section or knowingly approves the same is personally liable for any loss resulting to an industrial loan company from such loan or contract (in addition to any other penalties provided by law)

The prohibition contained in this section shall not apply to the purchase by an industrial loan company of a contract or chose in action from a personal property broker provided written authorization for such purchase is obtained from the commissioner.

SEC 7 Section 18456 is added to the Financial Code, to read:

18456 The provisions of this chapter shall be applicable to lease obligations

SEC. 8 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, there shall be no appropriation made by this act pursuant to those sections 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 agencies and school districts which, in the aggregate, do not result in significant identifiable cost changes. Paragraph (2) of subdivision (c) of Section 2253 2 of that code precludes the State Board of Control from considering claims for costs incurred by the creation of a new crime or infraction or by changes in the penalty for a crime or infraction, but the Department of Finance shall make the report required by Section 2246 of that code on costs mandated by this act

SEC. 9 This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are

In order to authorize property lease transactions by industrial loan companies without unnecessary delay, it is necessary that this act go into immediate effect

---

CHAPTER 912

An act to amend Section 4801 of the Civil Code, relating to domestic relations

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 4801 of the Civil Code is amended to read:

4801. (a) In any judgment decreeing the dissolution of a marriage or a legal separation of the parties, the court may order a party to pay for the support of the other party any amount, and for such period of time, as the court may deem just and reasonable. In making the award, the court shall consider the following circumstances of the respective parties:

(1) The earning capacity of each spouse, taking into account the extent to which the supported spouse's present and future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported spouse to devote time to domestic duties

(2) The needs of each party.

(3) The obligations and assets, including the separate property, of each.

(4) The duration of the marriage.

(5) The ability of the supported spouse to engage in gainful employment without interfering with the interests of dependent children in the custody of the spouse.

(6) The time required for the supported spouse to acquire appropriate education, training, and employment.

(7) The age and health of the parties.

(8) The standard of living of the parties.

(9) Any other factors which it deems just and equitable.

At the request of either party, the court shall make appropriate findings with respect to the circumstances. The court may order the party required to make such payment of support to give reasonable security therefor. Any order for support of the other party may be modified or revoked as the court may deem necessary, except as to any amount that may have occurred prior to the date of the filing of the notice of motion or order to show cause to modify or revoke At the request of either party, the order of modification or revocation shall include findings of fact and may be made retroactive to the date of filing of the notice of motion or order to show cause to modify or revoke, or to any date subsequent thereto

(b) Except as otherwise agreed by the parties in writing, the obligation of any party under any order or judgment for the support and maintenance of the other party shall terminate upon the death of either party or the remarriage of the other party

(c) When a court orders a person to make specified payments for support of the other party for a contingent period of time, the liability of such person terminates upon the happening of such contingency If the party to whom payments are to be made fails to notify the person ordered to make such payments, or the attorney of record of such person, of the happening of such contingency and continues to accept support payments, such party shall refund any and all moneys received which accrued after the happening of such

contingency, except that such overpayments shall first be applied to any and all support payments which are then in default. The court may, in the original order for support, order the party to whom payments are to be made to notify the person ordered to make such payments, or his attorney of record, of the happening of such contingency.

(d) An order for payment of an allowance for the support of one of the parties shall terminate at the end of the period specified in the order and shall not be extended unless the court in its original order retains jurisdiction

---

CHAPTER 913

An act to add Chapter 2.6 (commencing with Section 1000.6) to Title 6 of Part 2 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Chapter 2.6 (commencing with Section 1000.6) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2 6. SPECIAL PROCEEDINGS IN CASES INVOLVING DOMESTIC VIOLENCE

1000 6 (a) Upon the determination of the judge presiding, this chapter shall apply whenever a case is before the court upon an accusatory pleading for an act of domestic violence which is charged as, or reduced to, a misdemeanor and all of the following apply to the defendant.

(1) The defendant has no conviction for any offense involving violence within seven years prior to the alleged commission of the charged divertible offense.

(2) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(3) The defendant's record does not indicate that he or she has been diverted pursuant to this chapter within five years prior to the charged divertible offense.

(b) The prosecuting attorney shall, and the defense attorney may, review his or her file to determine whether or not paragraphs (1) to (3), inclusive, of subdivision (a) are applicable to the defendant. If the defendant is found eligible, the prosecuting attorney shall recommend to the court, and the defense attorney may move, that he or she shall be diverted pursuant to this chapter If the defendant is found ineligible, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon

which the determination is based, and shall make this information available to the defendant and his or her attorney

(c) No admission of guilt shall be required of a defendant in order for this chapter to be applicable.

(d) As used in this chapter "domestic violence" means the infliction of corporal injury resulting in a traumatic condition upon a family or household member

(e) As used in this chapter "family or household member" means a spouse, former spouse, parent, child, any other person related by consanguinity, or any person who regularly resides or who within the previous six months regularly resided in the household.

1000.7. If the prosecuting attorney determines that this chapter may be applicable to the defendant, he or she shall advise the defendant and his or her attorney in writing of such determination. This notification shall include:

(1) A full description of the procedures of diversionary investigation

(2) A general explanation of the roles and authorities of the court, the prosecuting attorney, and the community program in the diversion process.

(3) A clear statement that the court may decide in a hearing not to divert such person and that he or she may have to stand trial for the alleged offense.

(4) A clear statement that should such person fail in meeting the terms of his or her diversion, or should he or she be convicted of any offense involving violence, he or she may be required , after a court hearing, to stand trial for the original alleged offense.

(5) An explanation of criminal record retention and disposition resulting from participation in the diversion and the divertee's rights relative to answering questions about his or her arrest and diversion following successful completion of the diversion program.

1000 8 (a) The court shall hold a hearing and, after consideration of the recommendation of the prosecuting attorney, the motion of the defense attorney, and any other information considered by the court to be relevant to its decision, shall determine if the defendant consents to further proceedings under this chapter and waives his or her right to a speedy trial and if the defendant should be diverted and referred for counseling If the court does not deem the defendant a person who would be benefitted by diversion, or if the defendant does not consent to participate, the proceedings shall continue as in any other case If the court orders a defendant to be diverted, the court shall make inquiry into the financial condition of the defendant and upon a finding that the defendant is able in whole or part to pay the expense of such counseling the court may order him or her to pay for all or part of such expense.

(b) At such time that the defendant's case is diverted, any bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of him or her shall be exonerated, and the court shall enter an order so directing

(c) The period during which further criminal proceedings against a person may be diverted pursuant to this chapter shall be for no less than six months nor longer than two years.

1000.9 If it appears to the prosecuting attorney that the divertee is performing unsatisfactorily in the assigned program, or that the divertee is not benefitting from counseling, or that he or she is convicted of any offense involving violence, after notice to the divertee, the court shall hold a hearing to determine whether the criminal proceedings should be reinstituted. If the court finds that the divertee is not performing satisfactorily in the assigned program, or that the divertee is not benefitting from diversion, or the court finds that the divertee has been convicted of a crime as indicated above, the criminal case shall be referred back to the court for resumption of the criminal proceedings. If the divertee has performed satisfactorily during the period of diversion, at the end of the period of diversion, the criminal charges shall be dismissed.

1000 10 Any records filed with the Department of Justice shall indicate the disposition in those cases diverted pursuant to this chapter Upon successful completion of a diversion program the arrest upon which the diversion was based shall be deemed to have never occurred. The divertee may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or diverted for such offense A record pertaining to an arrest resulting in successful completion of a diversion program shall not, without the divertee's consent, be used in any way which could result in the denial of any employment, benefit, license, or certificate

1000 11 No statement, or any information procured therefrom, with respect to the specific offense with which the defendant is charged, which is made to any probation officer or community program worker during the process of determining the defendant's eligibility for diversion or subsequent to the granting of diversion, shall be admissible in any action or proceeding

---

CHAPTER 914

An act to add and repeal Sections 26469, 26569.11, 26569.12, 26569.13, 26569.15, 26569.16, 26569.17, 26850.5, and 26850.6 to the Health and Safety Code, relating to organic food.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. The Legislature hereby finds and declares that an increasing number of marketed food products are advertised or labeled as being organic, organically grown, naturally grown, or wild

and that frequently such food products command premium prices.

The Legislature further finds and declares that in order to provide for the protection of the consumer and the farmer in this state, it is necessary that standards relating to the use of descriptive terms to fairly identify such food products be established.

In enacting the Organic Foods Act of 1979, the Legislature specifically makes no finding either that such food products are in any way superior to conventionally produced food products or that more conventionally produced food products lack safety, wholesomeness, or nutritional value.

SEC. 2 This act shall be known as the Organic Foods Act of 1979

SEC. 3. Section 26469 is added to the Health and Safety Code, to read:

26469. It is unlawful to use the terms "organic," "organically grown," "naturally grown," "wild," "ecologically grown," or "biologically grown," when advertising or otherwise making representations with respect to a raw agricultural commodity, processed food product, or meat, poultry, fish, or milk, in violation of Section 26569.11.

The prohibition of this section shall not apply to the term "wild" when such term is used to describe a flavor of a food or a plant variety

The prohibition of this section shall not apply to the term "natural."

This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 4 Section 26569.11 is added to the Health and Safety Code, to read:

26569.11. Except as otherwise provided in this division, the terms "organic," "organically grown," "naturally grown," "wild," "ecologically grown," or "biologically grown" shall be used after January 1, 1981, in the labeling or advertising of a food only for any of the following:

(a) Raw agricultural commodities without applied coloring or synthetically compounded materials in the unpeeled natural form, except rapid heating or chilling, and which meet the following requirements:

(1) Are produced, harvested, distributed, stored, processed, and packaged without application of synthetically compounded fertilizers, pesticides, or growth regulators.

(2) Additionally, in the case of perennial crops, no synthetically compounded fertilizers, pesticides, or growth regulators shall be applied to the field or area in which the commodity is grown for 12 months prior to the appearance of flower buds and throughout the entire growing and harvest season of the particular commodity

(3) Additionally, in the case of annual crops and two-year crops, no synthetically compounded fertilizers, pesticides, or growth regulators shall be applied to the field or area in which the

commodity is grown for 12 months prior to seed planting or transplanting and throughout the entire growing and harvest season for the particular commodity.

Only microorganisms, microbiological products, and materials consisting of, or derived or extracted solely from, plant, animal, or mineral-bearing rock substances, may be applied in the production, storing, processing, harvesting, or packaging of raw agricultural commodities, other than seeds for planting, in order to meet the requirements of this subdivision. However, before harvest, the application of bordeaux mixes and trace elements, soluble kelp, lime, sulfur, gypsum, dormant oils, summer oils, fish emulsion, and soap are permitted, except that the application of aromatic petroleum solvents, diesel, and other petroleum fractions, used as weed or carrot oils, are prohibited. For purposes of this subdivision, "synthetically compounded" means those products formulated by a process which chemically changes a material or substance extracted from naturally occurring plant, animal, or mineral sources, excepting microbiological processes

(b) Processed foods manufactured only from raw agricultural commodities as described in subdivision (a). The use of ascorbic acid, sodium ascorbate, calcium ascorbate, and citric acid as an antioxidant or chelate is permitted in processed foods under this subdivision.

(c) Processed foods manufactured only from raw agricultural commodities as described in subdivision (a) and processed foods as described in subdivision (b).

(d) Meat, poultry, or fish produced without the use of any chemical or drug to stimulate or regulate growth or tenderness and without any drugs or antibiotics administered or introduced to such animal by injection or ingestion, except for treatment of a specific disease or malady and in no event administered or introduced within 90 days of the slaughter of such animal; at least the final 60 percent of the sale weight of each animal, bird, or fish shall have been raised on feed without medication which complies with subdivision (a).

(e) Milk from animals, which are raised on feed without medication, which feed complies with the provisions of subdivision (a) or (b) and into which animal no drugs or antibiotics have been administered or introduced to such animal by injection or ingestion, except for treatment of a specific disease or malady and in no event administered or introduced within 30 days prior to the production of such milk

(f) No product shall be labeled or advertised as a "wild" product unless such product is wholly derived from an undomesticated or uncultivated source and complies with the provisions of subdivision (a)

(g) No claim or implication shall be made in the advertising or promotion of a food product that the food product is organic, organically grown, naturally grown, wild, ecologically grown, or biologically grown, unless it conforms to the requirements of this section

(h) This section shall not apply to the term "natural" when used in the labeling or advertising of a food.

This section shall not apply to the term "wild" when such term is used to describe a flavor of a food or a plant variety.

(i) This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC 5 Section 26569.12 is added to the Health and Safety Code, to read

26569 12. Except as otherwise provided in this division, no food product shall be labeled as "organic," "organically grown," "naturally grown," "wild," "ecologically grown," or "biologically grown", which has any pesticide residue in excess of 10 percent of the level regarded as safe by the federal Food and Drug Administration.

The prohibition of this section shall not apply to the term "wild" when such term is used to describe a flavor of a food or a plant variety

The prohibition of this section shall not apply to the term "natural"

This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date

SEC 6 Section 26569.13 is added to the Health and Safety Code, to read

26569.13 (a) Except as otherwise provided in this division, the terms "organic," "organically grown," "naturally grown," "wild," "ecologically grown," or "biologically grown" shall not be used for the advertising or labeling of a raw agricultural commodity, processed food product, or meat, poultry, fish, or milk, unless it complies with the provisions of Section 26569.11 and is prominently labeled as follows, or with substantially similar language:

(1) For raw agricultural food products
ORGANICALLY GROWN IN ACCORDANCE WITH SECTION 26569 11 OF THE CALIFORNIA HEALTH AND SAFETY CODE

(2) For processed food products:
ORGANICALLY GROWN AND PROCESSED IN ACCORDANCE WITH SECTION 26569.11 OF THE CALIFORNIA HEALTH AND SAFETY CODE

(3) For meat, poultry, fish, or milk
ORGANICALLY PRODUCED IN ACCORDANCE WITH SECTION 26569 11 OF THE CALIFORNIA HEALTH AND SAFETY CODE

(b) For unpackaged foods, the requirements of subdivision (a) relating to labeling shall be deemed to have been met if such labeling appears prominently on or over the bin or container holding the food

The prohibition of this section shall not apply to the term "wild" when such term is used to describe a flavor of a food or a plant

variety.

The prohibition of this section shall not apply to the term "natural."

This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 7 Section 26569.15 is added to the Health and Safety Code, to read·

26569.15 When a food product subject to the provisions of Section 26569.11 is labeled as "certified," the name of the person or organization which provides such certification shall be listed on the label

This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 8. Section 26569.16 is added to the Health and Safety Code, to read·

26569 16. (a) All growers who sell farm products identified as "organic," "organically grown," "naturally grown," "wild," "ecologically grown," or "biologically grown" shall keep accurate records of the location of the acreage used for growing such products and the additions, excluding water, made to the soil or applied to the plants or added to irrigation water. Such records shall be retained for two years after the crop is sold and delivered by the grower.

(b) All persons who process or manufacture food products which are sold identified as "organic," "organically grown," "naturally grown," "wild," "ecologically grown," or "biologically grown" shall keep accurate records as to the ingredients of the product and the names and addresses of persons from whom the ingredients were purchased. Such records shall be retained for two years after the food product is sold and delivered.

(c) All persons who sell such food products shall keep accurate records of the names and addresses of persons from whom such products were purchased. Such records shall be retained for two years after the food product is sold and delivered.

(d) Growers, manufacturers, and sellers of such products shall provide the department, upon demand, with the relevant information from the records required pursuant to this section.

(e) The department shall, upon request, provide copies of any information collected pursuant to this section to any person or entity. The department shall collect information kept by a grower, manufacturer, or seller pursuant to this section upon request of any person or entity. In providing such copies, the department may charge such requesting person or entity a fee for the cost of reproducing such information.

(f) The provisions of this section shall not apply to the term "wild" when such term is used to describe a flavor of a food or a plant variety

This section shall not apply to the term "natural."

This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC 9 Section 26569 17 is added to the Health and Safety Code, to read:

26569.17. The prohibitions or requirements contained in Sections 26569 11 to 26569.16, inclusive, shall not apply to persons engaged in business as wholesale or retail distributors of the commodities referred to in Sections 26569 11 to 26569.16, inclusive, except to the extent that such persons:

(1) Are engaged in the manufacturing, packaging, or labeling of such commodities, except that the prohibitions or requirements contained in Sections 26569.11 to 26569.16, inclusive, shall not apply to any such wholesale or retail distributor who in good faith makes the same representations on a package or label as have been made in writing or printed advertising or labeling by the manufacturer, distributor, or other person providing the product to such wholesale or retail distributor.

(2) Prescribe or specify by the specific means in violation of Sections 26569.11 to 26569.16, inclusive, the manner in which such commodities are manufactured, packaged, or labeled.

(3) Have knowledge of the violation of any provisions of Sections 26569 11 to 26569.16, inclusive, by any specific batch of such commodities and continue to sell or distribute such specific batch of such commodity

This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC 9.5 Section 26850 5 is added to the Health and Safety Code, to read·

26850 5 (a) Notwithstanding the provisions of Section 26850 or any other provision of law, any person, organization, or public or private entity, may bring an action in superior court pursuant to this section and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of Sections 26569 11 to 26569 16, inclusive. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that such person, organization, or entity shall not be required to allege facts necessary to show, or tending to show, lack of adequate remedy at law, or to show, or tending to show, irreparable damage or loss, or to show, or tending to show, unique or special individual injury or damages.

(b) In addition to the injunctive relief provided in subdivision (a), the court may award to such person, organization, or entity reasonable attorney's fees as determined by the court

(c) The provisions of this section shall not be construed to limit or alter the powers of the department and its authorized agents to bring

an action to enforce the provisions of this chapter pursuant to Section 26850 or any other provision of law.

This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC. 10. Section 26850.6 is added to the Health and Safety Code, to read·

26850 6. Notwithstanding any provision of this division, including, but not limited to, Sections 26200, 26202, 26205, 26206, 26207, 26208, 26210, 26230, 26232, 26409, 26433, 26434, 26436, 26438, 26559, 26561, 26564, 26569.9, 26581, 26582, and 26590, and Article 2 (commencing with Section 26811), Article 3 (commencing with Section 26830), or Article 4 (commencing with Section 26850) of Chapter 8, or any other provision of law, no state agency shall have any affirmative obligation to adopt regulations or otherwise to enforce the provisions of the Organic Foods Act of 1979, including but not limited to, the provisions of Section 26569.11.

This section shall remain in effect only until January 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends such date.

SEC 11 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 915

An act to amend Section 4600 of, and to add Section 4600.5 to, the Civil Code, relating to child custody

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 4600 of the Civil Code is amended to read

4600 The Legislature finds and declares that it is the public policy of this state to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and in order to effect such policy, it is necessary to encourage parents to share the rights and responsibilities of child rearing.

In any proceeding where there is at issue the custody of a minor child, the court may, during the pendency of the proceeding or at

any time thereafter, make such order for the custody of the child during minority as may seem necessary or proper. If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an award of custody or modification thereof. Custody should be awarded in the following order of preference, according to the best interests of the child·

(a) To both parents jointly pursuant to Section 4600 5 or to either parent In making an award of custody to either parent, the court shall consider which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and shall not prefer a parent as custodian because of that parent's sex

The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

(b) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.

(c) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child

Before the court makes any order awarding custody to a person or persons other than a parent, without the consent of the parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interests of the child Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings The court may, in its discretion, exclude the public from the hearing on this issue.

SEC 2 Section 4600 5 is added to the Civil Code, to read

4600 5 (a) There shall be a presumption, affecting the burden of proof, that joint custody is in the best interests of a minor child where the parents have agreed to an award of joint custody or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage

If the court declines to enter an order awarding joint custody pursuant to this subdivision, the court shall state in its decision the reasons for denial of an award of joint custody

(b) Upon the application of either parent, joint custody may be awarded in the discretion of the court in other cases For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate under this subdivision, the court may direct that an investigation be conducted pursuant to the provisions of Section 4602 If the court declines to enter an order awarding joint custody pursuant to this subdivision, the court shall state in its decision the reasons for denial of an award of joint custody

(c) For the purposes of this section, "joint custody" means an order awarding custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child or children of frequent

and continuing contact with both parents; provided, however, that such order may award joint legal custody without awarding joint physical custody.

(d) Any order for joint custody may be modified or terminated upon the petition of one or both parents or on the court's own motion if it is shown that the best interests of the child require modification or termination of the order The court shall state in its decision the reasons for modification or termination of the joint custody order if either parent opposes the modification or termination order.

(e) Any order for the custody of the minor child or children of a marriage entered by a court in this state or any other state may, subject to the jurisdictional requirements set forth in Sections 5152 and 5163, be modified at any time to an order of joint custody in accordance with the provisions of this section.

(f) In counties having a conciliation court, the court or the parties may, at any time, pursuant to local rules of court, consult with the conciliation court for the purpose of assisting the parties to formulate a plan for implementation of the custody order or to resolve any controversy which has arisen in the implementation of a plan for custody.

(g) Notwithstanding any other provision of law, access to records and information pertaining to a minor child, including but not limited to medical, dental, and school records, shall not be denied to a parent because such parent is not the child's custodial parent.

SEC. 3 Section 4600 of the Civil Code is amended to read:

4600. (a) The Legislature finds and declares that it is the public policy of this state to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

In any proceeding where there is at issue the custody of a minor child, the court may, during the pendency of the proceeding or at any time thereafter, make such order for the custody of the child during minority as may seem necessary or proper. If a child is of sufficient age and capacity to reason so as to form an intelligent preference as to custody, the court shall consider and give due weight to the wishes of the child in making an award of custody or modification thereof. In determining the person or persons to whom custody should be awarded under paragraph (2) or (3) of subdivision (b), the court shall consider and give due weight to the nomination of a guardian of the person of the child by a parent under Article 1 (commencing with Section 1500) of Chapter 1 of Part 2 of Division 4 of the Probate Code

(b) Custody should be awarded in the following order of preference according to the best interests of the child.

(1) To both parents jointly pursuant to Section 4600.5 or to either parent In making an order for custody to either parent, the court shall consider, among other factors, which parent is more likely to

allow the child or children frequent and continuing contact with the noncustodial parent, and shall not prefer a parent as custodian because of that parent's sex.

The court, in its discretion, may require the parents to submit to the court a plan for the implementation of the custody order.

(2) If to neither parent, to the person or persons in whose home the child has been living in a wholesome and stable environment.

(3) To any other person or persons deemed by the court to be suitable and able to provide adequate and proper care and guidance for the child

(c) Before the court makes any order awarding custody to a person or persons other than a parent, without the consent of the parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interests of the child. Allegations that parental custody would be detrimental to the child, other than a statement of that ultimate fact, shall not appear in the pleadings. The court may, in its discretion, exclude the public from the hearing on this issue

SEC 4 It is the intent of the Legislature, if this bill and Assembly Bill 167 are both chaptered and become effective January 1, 1980, both bills amend Section 4600 of the Civil Code, and this bill is chaptered after Assembly Bill 167, that the amendments to Section 4600 proposed by both bills be given effect and incorporated in Section 4600 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 167 are both chaptered and become effective January 1, 1980, both amend Section 4600, and this bill is chaptered after Assembly Bill 167, in which case Section 1 of this act shall not become operative

---

CHAPTER 916

An act to amend Section 65901 of the Government Code, relating to zoning

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 65901 of the Government Code is amended to read

65901 The board of zoning adjustment or zoning administrator shall hear and decide applications for conditional uses or other permits when the zoning ordinance provides therefor and establishes criteria for determining such matters, and applications for variances from the terms of the zoning ordinance. Said board or

said zoning administrator may also exercise such other powers as may be granted by local ordinance, and adopt all rules and procedures necessary or convenient for the conduct of its or his business.

In accordance with the requirements for variances specified in Section 65906, the legislative body of the city or county may, by ordinance, authorize the zoning administrator to decide applications for variance from the terms of the zoning ordinance without a public hearing on the application Such ordinance shall specify the kinds of variances which may be granted by the zoning administrator, and the extent of variation which the zoning administrator may allow

Prior to the decision on an application for a variance as provided for in this section, the legislative body of the city or county shall give notice of the proposed variance by mail or delivery to all persons, including businesses, corporations, or other public or private entities, shown on the last equalized assessment roll as owning real property within 300 feet of the property which is the subject of the proposed variance

---

CHAPTER 917

An act to amend Sections 33146, 33147, and 33150 of, and to add Section 32761.5 to, the Food and Agricultural Code, relating to milk, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

The people of the State of California do enact as follows

SECTION 1. Section 32761 5 is added to the Food and Agricultural Code, to read:

32761 5. The director shall test milk and milk products for inhibitory substances The official testing methods used for detection of such substances in milk produced on dairy farms shall be the Bacillus Stearothermophilus Disc Assay Method or the Sarcina Lutea Cylinder Method. The official testing methods used for pasteurized milk and milk products shall be those adopted by the federal Food and Drug Administration for such milk products If testing results show any residues of inhibitory substances, the director shall condemn the tested milk or milk products for human consumption

SEC 1.5 Section 33146 of the Food and Agricultural Code is amended to read.

33146 Any producer, distributor, or approved milk inspection service may file with the director a written protest regarding any designation which is made pursuant to Section 33141 A petition, signed by 51 percent or more of producers and a majority of processors of any grade of milk within the jurisdiction of any

approved milk inspection service, may request the termination of the county or city approved milk inspection service and that instead an inspection service be established by the director. The written protest or petition shall state all the reasons for the protest or petition.

SEC. 2. Section 33147 of the Food and Agricultural Code is amended to read:

33147. The director may, within 30 days after the receipt of the protest and shall, within 30 days after receipt of a petition, and after at least five days' written notice to any approved milk inspection service which is concerned, announce a date upon which a hearing on the protest or petition will be held.

SEC. 3. Section 33150 of the Food and Agricultural Code is amended to read:

33150. After the hearing, the director may revoke, amend, or retain such designation, designate another approved milk inspection service to perform the inspection as provided in this article, or establish and conduct an inspection service unless the funds which are derived under Article 9 (commencing with Section 33291) of this chapter are inadequate to maintain a milk inspection service established by the director.

CHAPTER 918

An act to amend Section 25100 of the Corporations Code, relating to securities.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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.

(l) 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.

(r) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution;

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise,

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser, and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act

SEC 2 Section 25100 of the Corporations Code is amended to read

25100 The following securities are exempted from the provisions of Sections 25110, 25120, and 25130

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and

county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any 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, or regulated, under the Credit Union Law.

(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.

(r) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution,

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser, and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 3 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.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided (1) the corporation limits its shareholders or members primarily to ultimate consumers only or producers only and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one hundred dollars ($100) This exemption does not apply to the shares or memberships

of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements.

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution,

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise;

(3) The loans are serviced by a financial institution specified in paragraph (1);

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser, and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC 4. 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, or regulated, under the Credit Union Law

(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

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided (1) the corporation limits its shareholders or members primarily to ultimate consumers only or producers only and (2) the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one hundred dollars ($100) This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of mortgage loans originated or acquired in the ordinary course of business by a national bank or federal savings and loan association having its principal office in this state, by a bank incorporated under the laws of this state or by a savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner and which at the time of transfer to the pool is an authorized investment for such origination or acquiring institution,

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise,

(3) The loans are serviced by a financial institution specified in paragraph (1),

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser, and

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered

pursuant to an exemption under Section 4(2) of that act

SEC. 5. It is the intent of the Legislature that if this bill and Assembly Bill 372 or Assembly Bill 1633, or both, are chaptered and become effective January 1, 1980, each of the bills amend Section 25100 of the Corporations 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 372 are both chaptered and become effective January 1, 1980, both bills amend Section 25100 of the Corporations Code, but Assembly Bill 1633 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 372, the amendments proposed by both bills shall be given effect and incorporated in Section 25100 in the form set forth in Section 2 of this act. Therefore, if this bill and Assembly Bill 372 are both chaptered and become effective January 1, 1980, both bills amend Section 25100, this bill is chaptered after Assembly Bill 372, and Assembly Bill 1633 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 1633 are both chaptered and become effective January 1, 1980, both bills amend Section 25100 of the Corporations Code, but Assembly Bill 372 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 1633, the amendments proposed by both bills shall be given effect and incorporated in Section 25100 in the form set forth in Section 3 of this act. Therefore, if this bill and Assembly Bill 1633 are both chaptered and become effective January 1, 1980, both bills amend Section 25100, this bill is chaptered after Assembly Bill 1633, and Assembly Bill 372 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 372 and Assembly Bill 1633 are all chaptered and become effective January 1, 1980, all three bills amend Section 25100 of the Corporations Code, and this bill is chaptered after Assembly Bill 372 and Assembly Bill 1633, the amendments proposed by all three bills shall be given effect and incorporated in Section 25100 in the form set forth in Section 4 of this act. Therefore, if this bill and Assembly Bill 372 and Assembly Bill 1633 are all chaptered and become effective January 1, 1980, all three bills amend Section 25100 of the Corporations Code, and this bill is chaptered after Assembly Bill 372 and Assembly Bill 1633, Section 4 of this act shall be operative and Sections 1, 2, and 3 of this act shall not become operative

CHAPTER 919

An act to amend Sections 30108.6, 30212, 30315, 30604, 30610, 30621, 30622, 30624, and 30806 of, to add Sections 30122, 30214, 30333.1, 30335 1, 30610.1, 30610.2, 30610.3, 30610.4, 30612, and 30627 to, and to add Article 4 (commencing with Section 30350) to Chapter 4 of Division 20 of, the Public Resources Code, relating to the California coastal zone.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 30108 6 of the Public Resources Code is amended to read·

30108 6 "Local coastal program" means a local government's (a) land use plans, (b) zoning ordinances, (c) zoning district maps, and (d) within sensitive coastal resources areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, this division at the local level

SEC. 1 5 Section 30122 is added to the Public Resources Code, to read:

30122. "Zoning ordinance" means an ordinance authorized by Section 65850 of the Government Code or, in the case of a charter city, a similar ordinance enacted pursuant to the authority of its charter

SEC. 2. Section 30212 of the Public Resources Code is amended to read.

30212 (a) 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.

(b) For purposes of this section, "new development" does not include·

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure

(4) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the regional commission or the commission determines that such activity will have an adverse impact on lateral public access along the beach

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure

(c) 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. 3. Section 30214 is added to the Public Resources Code, to read

30214. (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution

(c) In carrying out the public access policies of this article, the commission, regional commissions, and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs

SEC. 4. Section 30315 of the Public Resources Code is amended

to read:

30315. The commission and regional commission shall meet at least once a month at a place convenient to the public. All meetings of the commission and each regional commission shall be open to the public.

A majority of the total appointed membership of the commission or of the regional commission, as the case may be, shall constitute a quorum Any action taken by the commission or regional commission under this division requires a majority vote of the members present at the meeting of the commission or regional commission, with a quorum being present, unless otherwise specifically provided for in this division. Any action by the commission or a regional commission to certify a local coastal program or any amendment thereto, or to adopt or amend rules or regulations of the commission or a regional commission, shall require a majority vote of the total appointed membership of such commission or regional commission.

SEC. 5 Section 30333 1 is added to the Public Resources Code, to read

30333 1. (a) The commission shall, within six months of the effective date of this section, review its regulations and procedures and determine what revisions, if any, are necessary and appropriate to simplify and expedite the review of any matter that is before the commission or any regional commission for action pursuant to the provisions of this division. The commission shall, within 60 days thereafter, implement any such revisions it deems appropriate, including, but not limited to, a simplified application form for development pursuant to which a permit could be issued pursuant to Section 30624 and procedures that allow reasonable rebuttal time prior to the final vote for both applicants and appellants, if either so requests, in permit matters where new factual material is brought up and where equity would not be served unless such person is provided such rebuttal opportunity.

(b) After the initial review required by this section has been completed, the commission shall thereafter periodically conduct similar reviews so that its regulations and procedures may continue to be as simple and expeditious as practicable.

SEC 6. Section 30335 1 is added to the Public Resources Code, to read.

30335 1 The commission shall provide for appropriate employees on the staff of the commission and of each regional commission to assist applicants and other interested parties in connection with matters which are before the commission or the respective regional commission for action. The assistance rendered by such employees shall be limited to matters of procedure and shall not extend to advice on substantive issues arising out of the provisions of this division, such as advice on the manner in which a proposed development might be made consistent with the policies specified in Chapter 3 (commencing with Section 30200)

SEC 6.5 Article 4 (commencing with Section 30350) is added to

Chapter 4 of Division 20 of the Public Resources Code, to read·

Article 4 Local Coastal Program Implementation Costs

30350. (a) It is the policy of the state that local governments be paid their legitimate costs, from either state or federal funds, for the implementation of certified local coastal programs; provided, however, that such payment shall only be available for those costs directly attributable to the operation of a certified local coastal program and which costs would not have been incurred but for such local coastal program and which costs are not of a nature which would normally be incurred by such local government in carrying out its land use planning and regulatory responsibilities pursuant to any provision of law other than this division.

(b) Notwithstanding any other provision of law to the contrary, claims for payment of costs directly attributable to the operation and implementation of a certified local coastal program shall only be submitted, reviewed, and approved in the manner set forth in, and pursuant to the provisions of, this article

(c) The provisions of this article are intended to establish a procedure that ensures the orderly and carefully monitored expenditure of limited public funds for payment of such costs, the incurring of which is hereby recognized as being in the interest of all the people of this state because they carry out state policies for the wise, long-term conservation and use of coastal resources

30351 The commission shall, not later than July 1, 1980, prepare and adopt procedures for the issuance and management of local coastal program implementation grants. The purpose of the grants program is to provide, to the extent funds are available, financial assistance for local governments and, in cases the commission deems appropriate, other public agencies to carry out certified local coastal programs. The procedures required by this section shall specify, consistent with the criteria set forth in subdivision (a) of Section 30350, the categories of expenditures eligible for implementation grants and shall include procedures for application, review, approval, and disbursement of grant funds.

30352. (a) Any local government carrying out its certified local coastal programs may, upon the delegation of the development review authority pursuant to Section 30519, claim reimbursement of costs incurred for the implementation of such local coastal program if costs have not been provided in an implementation grant issued pursuant to Section 30351.

(b) Claims made pursuant to this article shall be submitted to the executive director of the commission not later than August 31 immediately following the fiscal year during which the claimed costs were incurred The executive director shall review such claims in accordance with the provisions of this article 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

(c) 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 Section 30353. 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.

30353. Payment for costs claimed pursuant to this article shall be made only for costs which, but for the operation of a certified local coastal program, would not have been incurred by the claimant local government and if the following criteria are met:

(a) Costs for establishing a regulatory program to implement a certifed local coastal program, including costs for the preparation and printing of public information materials, application forms, establishing new procedures, and staff training are payable. The costs specified in this subdivision include initial startup costs incurred over a period not to exceed one year from the date a certified local coastal program has been adopted for implementation by the appropriate local government

(b) A fixed payment not to exceed ten dollars ($10) per permit application for any development subject to a certified local coastal program may be claimed and paid The payment specified in this subdivision is intended to cover general costs, including costs for public notice, notice and submittal of files to the commission, and appearances before the commission

(c) Other costs of processing and reviewing coastal development permits pursuant to a certified local coastal program shall normally not be eligible for reimbursement because these types of activities should either be incorporated within the routine regulatory process of the local government or, at the discretion of such local government, be paid for from reasonable permit fees. A local government may, however, request payment for increased regulatory costs if it can show that either or both of the following special circumstances apply within its jurisdiction·

(1) In jurisdictions with a population of less than 10,000, the existing regulatory program of the local government is not capable of processing and reviewing additional coastal development permits pursuant to a certified local coastal program and where such increased costs could not reasonably be expected to be covered by permit fees.

(2) The regulatory program included in a certified local coastal program requires the discharge of resource management functions that exceed the level of regulatory review normally required or undertaken by the local government

(d) Costs for enforcement of regulatory requirements that are directly related to local coastal program implementation, such as ensuring compliance with coastal development permit terms and

conditions, are payable, if the enforcement activities are not of a type routinely undertaken as part of the affected local government's normal regulatory responsibilities.

(e) Litigation costs which, but for the operation of a certified local coastal program, would not have been incurred may be paid Where an action is brought against a local government and such action states as a principal cause of action the operation of such local government's local coastal program and the local government prevails in such action, litigation costs may be paid to the extent such costs are not assessed against the party bringing the action. Where the local government loses such action primarily on grounds it has failed to properly carry out its certified local coastal program, litigation costs shall not be paid

(f) If additional planning is required by the commission as a condition of its certification of any local coastal program, costs for such additional planning are payable

30354 (a) The executive director of the commission shall review and evaluate each claim submitted pursuant to this article and shall determine whether

(1) The costs claimed meet the requirements of this article

(2) The costs claimed are not paid for or reimbursed from any other source of state or federal funding

(3) The claimed costs are reasonable for the implementation of a certified local coastal program.

(b) 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 A copy of each claim shall also be sent to the claimant local government at the time such claim is submitted to the Controller. The executive director's recommendation shall be based on his or her determinations made pursuant to this article If the executive director fails to make a recommendation by the time claims are required to be submitted to the Controller, as provided in subdivision (b) of Section 30352, the executive director shall be deemed to have recommended approval of the claim

(c) The provisions of Section 2231 of the Revenue and Taxation Code shall apply to claims filed pursuant to this article, provided, however, that where a conflict between Section 2231 of the Revenue and Taxation Code and this article occurs, such conflict shall be resolved in a manner that best carries out the purposes of this article The Controller shall apply the criteria of this article 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

30355 As used in this article, "certified local coastal program" means any portion of a local coastal program that has been certified

SEC 7 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 proposed development within the coastal zone will have an adverse environmental effect outside the coastal zone.

(e) No coastal development permit may be denied under this division on the grounds that a public agency is planning or contemplating to acquire the property on, or property adjacent to the property on, which the proposed development is to be located, unless the public agency has been specifically authorized to acquire such property and there are funds available, or funds which could reasonably be expected to be made available within one year, for such acquisition If a permit has been denied for such reason and the property has not been acquired by a public agency within a reasonable period of time, a permit may not be denied for such development on grounds that such property, or adjacent property, is to be acquired by a public agency when the application for such a development is resubmitted.

SEC 8 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) Improvements to any structure other than a single-family residence or a public works facility; provided, however, that the commission shall specify, by regulation, those types of improvements which (1) involve a risk of adverse environmental effect, (2) adversely affect public access, or (3) involve a change in use contrary to any policy of this division. Any improvement so specified by the commission shall require a coastal development permit.

(c) 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.

(d) 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.

(e) 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, where such exclusion precedes certification of the applicable local coastal program, that such exclusion will not impair the ability of local government to prepare a local coastal program.

(f) 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

(g) The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure

As used in this subdivision, "natural disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure

SEC. 9 Section 30610.1 is added to the Public Resources Code, to read:

30610.1. (a) Prior to certification of the applicable local coastal program, no coastal development permit shall be required for the construction of a single-family residence on any vacant lot meeting the criteria set forth in subdivision (c) and located in a specified area designated by the commission pursuant to subdivision (b)

(b) Within 60 days from the effective date of this section, the commission shall designate specific areas in the coastal zone where the construction of a single-family residence on a vacant lot meeting the criteria set forth in subdivision (c) shall not require a coastal development permit. Areas shall be designated for the exclusion provided for in this section if construction of single-family residences within the area to be designated has no potential, either individually or cumulatively, for significant adverse impacts on highly scenic resources of public importance, on environmentally sensitive areas, on prime agricultural land or on agricultural lands currently in production, or on public access to or along the coast

In addition, if septic tanks will be required or used, an area identified as having septic tank problems by the appropriate regional water quality control board or the State Water Resources Control Board in an approved basin plan or by other formal action of such board may not be designated for exclusion pursuant to this section

(c) Within areas designated pursuant to subdivision (b), no coastal development permit shall be required for the construction of a single-family residence on any vacant lot which meets all of the following criteria:

(1) Is not located between the first public road and the sea or immediately adjacent to the inland extent of any beach or of the mean high tide line where there is no beach.

(2) Is a legal lot as of the effective date of this section and conforms with the minimum lot size and lot use designations of the applicable general plan and zoning ordinances

(3) Is not located within an area known to the affected local government, or designated by any other public agency, as a geologic hazard area or as a flood hazard area, or, if located within such an area, it has been determined by the affected local government to be a safe site for the construction of a single-family residence

(4) Is no more than 250 feet from an existing improved road adequate for use throughout the year

(5) Can be served by an adequate water supply that is legally available for use either by means of a well or by means of a connection to a water system with sufficient capacity to serve such lot or lots; provided, that no such connection shall require the extension of an existing water main which would have the capacity of serving four or more additional single-family residential structures

(d) The commission shall, within 120 days from the effective date of this section, specify uniform criteria that shall be used to determine the location of "the first public road" and the inland extent of any beach for purposes of paragraph (1) of subdivision (c).

(e) Within 30 days after the 120-day period specified in subdivision (b), the commission shall report to the Legislature and the Governor what has been done to carry out the provisions of this section.

(f) The provisions of this section shall apply notwithstanding any other provision of this division to the contrary

SEC 10 Section 30610 2 is added to the Public Resources Code, to read:

30610.2. (a) Any person wishing to construct a single-family residence on a vacant lot within an area designated by the commission pursuant to subdivision (b) of Section 30610.1 shall, prior to the commencement of construction, secure from the local government with jurisdiction over the lot in question a written certification or determination that such lot meets the criteria specified in subdivision (c) of Section 30610 1 and is therefore exempt from the coastal development permit requirements of this division. A copy of every such certification of exemption shall be sent by the issuing local government to the appropriate regional commission within five working days after it is issued.

(b) In the event that the commission does not designate the areas within the coastal zone as required by subdivision (b) of Section 30610.1 within the 120 days specified therein, a local government may make the certification authorized by subdivision (a) of this section without regard to the requirements of subdivision (b) of Section 30610.1.

SEC. 11. Section 30610 3 is added to the Public Resources Code, to read:

30610.3. (a) Whenever the commission determines (1) that public access opportunities through an existing subdivided area, which has less than 75 percent of the subdivided lots built upon, or an area proposed to be subdivided are not adequate to meet the public access requirements of this division and (2) that individual owners of vacant lots in such an area do not have the legal authority to comply with such public access requirements as a condition of securing a coastal development permit for the reason that some other person or persons has such legal authority, the commission shall implement such public access requirements as provided in this section

(b) The commission, on its own motion or at the request of an affected property owner, shall identify an area as meeting the criteria specified in subdivision (a). After such an area has been identified, the commission shall, after appropriate public hearings adopt a specific public access program for such area and shall request that the State Coastal Conservancy, established pursuant to Division 21 (commencing with Section 31000), implement such program.

Such access program shall include, but not be limited to, the identification of specific land areas and view corridors to be used for public access, any facilities or other development deemed appropriate, the commission's recommendations regarding the manner in which public access will be managed, and the types of permitted public uses The State Coastal Conservancy shall, pursuant to its authority, implement such public access program

(c) There is, in the General Fund, the Coastal Access Account The State Coastal Conservancy shall be authorized to expend funds when appropriated from the Coastal Access Account for the purchase of lands and view easements and to pay for any development needed to carry out the public access program specified in subdivision (a) Not more than 5 percent of the amount of funds necessary to carry out each such public access program may be provided as a grant to the State Coastal Conservancy for its administrative costs incurred in carrying out the access program

(d) The State Coastal Conservancy may enter into any agreement it deems necessary and appropriate with any state or local public agency or with a private association authorized to perform such functions for the operation and maintenance of any access facilities acquired or developed pursuant to this section

(e) Every person receiving a coastal development permit or a certificate of exemption for development on any vacant lot within an area designated pursuant to this section shall, prior to the commencement of construction, pay to the commission, for deposit in the Coastal Access Account, an "in-lieu" public access fee The amount of each such fee shall be determined by dividing the cost of acquiring the specified lands and view easements by the total number of lots within the identified area The proportion of the acquisition cost that can be allocated to lots built upon pursuant to permits that were not subject to public access conditions under this division or the California Coastal Zone Conservation Act of 1972 (former Division 18 (commencing with Section 27000)) shall be paid from the Coastal Access Account An "in-lieu" public access fee may be in the form of an appropriate dedication, in which event the lots to which such dedication can be credited shall not be counted toward the total number of lots used in arriving at the "in-lieu" public access fee share for each remaining lot

(f) For purposes of determining the acquisition costs specified in subdivision (e), the State Coastal Conservancy may, in the absence of a fixed price agreed to by both the State Coastal Conservancy and the seller, specify an estimated cost based on a formal appraisal of the value of the interest proposed to be acquired The appraisal shall be conducted by an independent appraiser under contract with the State Coastal Conservancy and shall be completed within 120 days of the adoption of the specific public access program by the commission pursuant to subdivision (b) Such appraisal shall be deemed suitable for all purposes of the Property Acquisition Law (Part 11 (commencing with Section 15850 of the Government Code)) For

every year following public acquisition of the interests in land specified as part of a public access program and prior to payment of the required "in-lieu" fee, a carrying cost factor equal to 5 percent of the share attributable to each lot shall be added to any unpaid "in-lieu" public access fee; provided, however, that a lot owner in such an area may pay the "in-lieu" public access fee at any time after public acquisition in order to avoid payment of the carrying cost factor

(g) No provision of this section may be applied within any portion of the unincorporated area in the County of Sonoma, commonly known as the Sea Ranch.

SEC. 12. Section 30610.4 is added to the Public Resources Code, to read·

30610.4. Upon establishment of an acquisition cost pursuant to subdivision (f) of Section 30610.3, the commission shall review the area in question to determine if all or some portion of such area meets the criteria specified in subdivision (b) of Section 30610.1 for areas within which no coastal development permit will be required from the regional commission or the commission for construction of single-family residences. Notwithstanding paragraph (1) of subdivision (c) of Section 30610.1, lots other than those immediately adjacent to any beach or to the mean high tide line where there is no beach can be included in such an exclusion area If the commission determines an area designated pursuant to subdivision (b) of Section 30610.3 meets such criteria, the area shall be designated as one wherein no coastal development permit from the regional commission or the commission shall be required for the construction of single-family residences

(b) Prior to the commencement of construction of any single-family residence within an area designated pursuant to this section, a certificate of exemption must be obtained pursuant to Section 30610.2 and the appropriate "in-lieu" public access fee shall be paid.

SEC 13. Section 30612 is added to the Public Resources Code, to read·

30612. An application for a coastal development permit to demolish a structure shall not be denied unless the commission or the regional commission finds, based on a preponderance of the evidence, that retention of such structure is feasible

SEC 14. 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 49 days after the

date on which the application or appeal is filed with the regional commission or the commission.

SEC. 15. Section 30622 of the Public Resources Code is amended to read·

30622. A regional commission or the commission shall act upon the coastal development permit application or an appeal within 21 days after the conclusion of the hearing pursuant to Section 30621 Any action by a regional commission shall become final after the 10th working day, unless an appeal is filed with the commission within such time The applicant may, at his own risk, commence construction prior to the expiration of such 10-day period immediately upon issuance of the permit by the executive director where the permit was approved without any known opposition and the executive director has no reason to believe an appeal would be filed, provided, however, if a valid appeal is filed within such 10-day appeal period the applicant shall immediately cease further construction pending final action on the appeal

SEC 16 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, any development of four dwelling units or less within any incorporated area that does not require demolition, and any other developments not in excess of fifty thousand dollars ($50,000) other than any division of land. 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 one-third of the appointed membership 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 17 Section 30627 is added to the Public Resources Code, to read·

30627 (a) The commission shall, by regulation, provide procedures which the commission and each regional commission shall use in deciding whether to grant reconsideration of any of the following.

(1) Any decision to deny an application for a coastal development permit

(2) Any term or condition of a coastal development permit which has been granted

(b) The procedures required by subdivision (a) shall include at least the following provisions:

(1) Only an applicant for a coastal development permit shall be eligible to request reconsideration.

(2) The request for reconsideration shall be made within 30 days of the decision on the application for a coastal development permit

(3) The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the regional commission's initial decision.

(4) The regional commission or the commission shall have the discretion to grant or deny requests for reconsideration.

(c) A decision to deny a request for reconsideration is not subject to appeal.

(d) The provisions of this section shall not alter any right otherwise provided by this division to appeal an action of a regional commission; provided, that a request for reconsideration shall be made only once for any one development application, and, when made to a regional commission, shall stay any appeal taken and shall, for purposes of any time limits specified in Sections 30621 and 30622, be considered a new application.

SEC. 18. Section 30806 of the Public Resources Code is amended to read·

30806. (a) Any civil action under this division by, or against, a city, county, or city and county, the commission, regional commission, special district, or any other public agency shall, upon motion of either party, be transferred to a county or city and county not a party to the action or to a county or city and county other than that in which the city, special district, or any other public agency which is a party to the action is located.

(b) In any action brought by or against any local government, other than an action brought by or against the commission, that involves the enforcement or implementation of its certified local coastal program, the Department of Justice shall, upon the request of such local government, provide such legal assistance as its resources permit.

SEC. 19. It is the intent of the Legislature that funding for the fiscal year 1980–81, and subsequent fiscal years for the purposes specified in Section 19 of this act be accomplished through the usual budgetary process. It is further the intent of the Legislature, in adding Section 30335 1 to the Public Resources Code, that interested parties receive appropriate assistance to facilitate their participation in the planning and coastal development permit processes required by Division 20 (commencing with Section 30000) of the Public Resources Code The Legislature recognizes that there is currently no personnel classification within state civil service for employees specified and required by Section 30335.1 and therefore urges the State Personnel Board to take whatever steps may be necessary or

appropriate to facilitate the employment or reclassification of personnel for such purposes

SEC 20 Within 30 days of the effective date of Section 30335 1, as added to the Public Resources Code by this act, the California Coastal Commission shall report to the Legislature on the status of its action to implement such provisions

---

CHAPTER 920

An act to amend Section 65302.6 of the Government Code, relating to local planning, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

The people of the State of California do enact as follows

SECTION 1 Section 65302 6 of the Government Code is amended to read

65302 6 (a) Notwithstanding any other provision of law, upon application by a city, county, or city and county, including any city incorporated after September 30, 1974, the Director of Planning and Research shall grant a reasonable extension of time not to exceed one year from the date of the application, for the preparation and adoption of one or more general plan elements required by this article if the legislative body of a city, county, or city and county, after a public hearing, makes one or more of the following findings

(1) Data required for the element must be provided by another agency and it has not yet been provided

(2) In spite of sufficient budgetary provisions and substantial recruiting efforts, the local agency has been unable to obtain necessary staff or consultant assistance

(3) A disaster has occurred requiring reassignment of staff for an extended period or requiring a complete reevaluation and revision of the entire general plan, or both

(4) Review procedures in local ordinances require an extended public review process which has resulted in delaying the decision by the local government's legislative body

(5) The city or county is jointly preparing the elements along with one or more other jurisdictions, pursuant to an existing agreement and timetable for completion

(6) Additional procedural reasons exist which the director deems to justify the granting of an extension, so that the production and adoption of complete and adequate general plans is promoted

(b) The purpose of this section is to permit cities and counties that have not yet adopted complete and adequate general plans to continue to review and approve development proposals pending

adoption of a complete and adequate general plan, provided, however, such approvals are consistent with local policies and the element or elements for which an extension of time is sought.

(c) The application for an extension specified in subdivision (a) of this section shall contain the following elements:

(1) A resolution of the legislative body of the city, county, or city and county adopted after a public hearing setting forth in detail the reasons why the general plan was not previously adopted as required by law, including one or more of the findings made by the legislative body pursuant to subdivision (a), and the amount of additional time necessary to complete the preparation and adoption of all required elements.

(2) A copy of the specific budget and schedule for the general plan preparation and adoption including plans for citizen participation and expected interim products. The budget and schedule should be of sufficient detail to allow the director to assess each applicant's progress at regular intervals during the term of the extension.

(3) A set of proposed policies and procedures which would ensure, during the extension of time granted pursuant to this section, that the land use proposed in an application for a subdivision, rezoning, land use permit, variance or building permit will be consistent with the existing general plan elements, and on the basis of available information will be consistent with the new elements or plan proposals being considered or studied.

(d) During the extension of time specified in this section, the city or county is not subject to the requirement that a complete and adequate general plan be adopted or the time within which it must be adopted or the requirement that the land use be compatible or consistent with the general plan as required by Section 65302, 65563, 65567, 65860, 65910, or 66473 5, or subdivision (a) or (b) of Section 66474, of the Government Code The provisions of this section shall apply only to those elements for which an extension has been granted. The city or county shall comply with all state laws and shall base all required findings on the existing adopted elements.

(e) The director may impose any conditions on extensions of time granted which the director deems are necessary to ensure full compliance with the State Planning and Zoning Law. In establishing such conditions, the director may adopt or modify and adopt any of the policies and procedures proposed by the city, county, or city and county, pursuant to paragraph (3) of subdivision (c).

(f) In the event that a city or county which has been granted a time extension pursuant to this section determines that it will not be able to complete the element or elements for which the extension has been granted within the prescribed time period, such city or county may request one additional extension. The director may grant such an additional extension of time, not to exceed one year, provided that the city or county is able to demonstrate that both substantial effort and substantial progress has been made toward the

completion of such element or elements.

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

Many critical and far-reaching controversies have developed between applicable agencies of the state and local government, often resulting in litigation, regarding the interpretation and validity of local general plan elements of counties and cities. This act requires that a vital extension of time be granted within which these controversies may potentially be settled. Therefore, it is necessary that this act take immediate effect.

CHAPTER 921

An act to add Sections 199.6, 199.7, 199.8, 199.9, and 199.10 to the Streets and Highways Code, and to amend Section 130291 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 199 6 is added to the Streets and Highways Code, to read·

199.6 Notwithstanding Section 14533 of the Government Code, the California Transportation Commission shall allocate from the State Highway Account in the State Transportation Fund an amount equal to the maximum authorized under Section 200 for exclusive public mass transit guideway construction purposes in the County of Los Angeles The Los Angeles County Transportation Commission shall submit its estimate of that amount to the California Transportation Commission.

SEC 2 Section 199.7 is added to the Streets and Highways Code, to read.

199 7 (a) All funds allocated for exclusive public mass transit guideway construction purposes pursuant to Section 199.6 in the County of Los Angeles shall be retained in the State Highway Account in the State Transportation Fund until such time as such funds are formally requested by the Los Angeles County Transportation Commission for expenditure and all the requirements of this section are complied with. A maximum of three fiscal years of such funds may be retained under this subdivision and the retention of such funds shall be based upon the state transportation improvement program adopted pursuant to Section 14529 of the Government Code

(b) The funds shall not be made available by the California Transportation Commission for construction under this section unless.

(1) The Los Angeles County Transportation Commission has approved a claim for funds and the project is included in its adopted transportation improvement program.

(2) The California Transportation Commission has approved a claim for funds filed pursuant to Section 199

(3) The local agencies contribute funds available to it, including those allocated to them pursuant to Section 99314 5, but excluding other state and federal funds, for the construction of the project in an amount equal to at least 5 percent of the cost thereof. Funds contributed toward purchase of rolling stock shall be deemed eligible as part of the local commitment required under this paragraph

(4) The requirement of paragraph (3) shall not apply to any project to which the California Transportation Commission has allocated funds prior to March 1, 1980.

(5) Federal financial assistance shall be sought for all projects to be constructed under this section In the event that federal participation in a project is less than 50 percent of construction costs, the Los Angeles County Transportation Commission shall report that fact to the California Transportation Commission, which shall grant authorization to proceed with the project if it finds that the Los Angeles County Transportation Commission took all steps to secure the maximum amount of federal funds for the project.

(c) The Los Angeles County Transportation Commission shall take all steps necessary to pursue a special assessment district or other method of value added tax to fund the capital or operating requirements for exclusive public mass transit guideways in Los Angeles County At least 180 days prior to any action by the California Transportation Commission approving expenditure of state funds under this section for construction, the Legislature shall receive a report from the Los Angeles County Transportation Commission with respect to the feasibility of establishing a special assessment district or other local taxing method to fund the local capital and operating costs of such a system The report shall describe the steps taken by the Los Angeles County Transportation Commission to pursue such financing and make recommendations to the Legislature on any necessary changes in state law with respect to such subject

(d) Subdivision (c) shall not apply to approval of funds for planning and design or to projects where special assessment district or other value added tax financing methods are already part of the capital or operating financing plan for the project

SEC 3. Section 199 8 is added to the Streets and Highways Code, to read

199 8 The California Transportation Commission shall do all of the following prior to approving the use of funds allocated pursuant to Section 199 7 for an exclusive public mass transit guideway system

in the County of Los Angeles generally known as the Regional Core Rapid Transit Line:

(a) Hold not less than two public hearings, within 90 days after the effective date of the act enacting this section during the 1979–80 Regular Session of the Legislature, at separate locations in the vicinity of two or more distinct guideway routes analyzed by the Southern California Rapid Transit District during the alternatives analysis phase of the guideway system project, on the following aspects of the project:

(1) The public hearing process used by the district was open and fair, all parties with a significant economic, social, or environmental interest had access to the decisionmaking process in accordance with Section 1610 of Title 49 of the United States Code.

(2) The final decision of the Los Angeles County Transportation Commission regarding the choice of a guideway route was based upon information about the community's transit needs which is verified to be relevant, accurate, and complete.

(b) Make findings on the aspects of the project set forth in Section 199.8(a), and submit a report on its findings to the Legislature within 120 days after the effective date of the act enacting this section during the 1979–80 Regular Session of the Legislature.

If the California Transportation Commission finds subdivision (1) or (2) of subdivision (a) to not be the case, the California Transportation Commission shall disapprove the use of funds allocated pursuant to Section 199 7

199 9. It is the intent of the Legislature that the California Transportation Commission's review of the proposed exclusive public mass transit guideway system in the County of Los Angeles shall take place concurrently with the Urban Mass Transportation Administration's review of the Draft Alternatives Analysis/Environmental Impact Statement/Environmental Impact Report on Transit System Improvements in the Los Angeles Regional Core.

199 10 It is the intent of the Legislature that the Los Angeles County Transportation Commission take a more active role, as required by Section 130303 of the Public Utilities Code, in initiating as well as determining the development of exclusive public mass transit guideway systems in Los Angeles County including, but not limited to, decisions on route location, station location, joint development opportunities, land use impacts, selection of appropriate mass transit hardware for such systems, and the coordination and integration of such systems into existing transit operations and community development objectives.

SEC 4 Section 130291 of the Public Utilities Code is amended to read

130291 The report shall address itself to, and contain recommendations for transportation solutions to, the achievement of the following objectives·

(a) The reduction of automobile congestion in and around the Los

Angeles central business district and other heavily congested corridors and areas within the County of Los Angeles.

(b) An increase in the person-moving capability of existing transportation facilities with minimum capital and operating costs to the public

(c) The reduction of automobile travel within the county to conserve fuel and reduce automobile-related air pollution.

(d) Improvements in the level of transit service for the handicapped, the poor, the elderly, and other transit-dependent segments of the population.

(e) The upgrading and improvements of blighted sections of the urban area, with emphasis on restoring residential neighborhoods in close proximity to employment centers.

(f) Progress as to the expansion of the Commission's roll in the development of exclusive public mass transit guideway systems in Los Angeles County The report shall include recommendations for any additional authority in state law necessary to achieve this expanded role

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 an urgent, immediate need to expedite the California Transportation Commission's review of specific aspects of the proposed guideway system project in Los Angeles County in order to maximize the efficient use of available federal and state mass transit assistance funds. Thus, it is necessary that this act take effect immediately.

CHAPTER 922

An act to add Sections 39019.5, 39019.6, 39050.5, 41604, and 42314 to, and to add Chapter 1.5 (commencing with Section 41515) to Part 4 of Division 26 of, the Health and Safety Code, and to add Section 454 7 to the Public Utilities Code, relating to air pollution, and making an appropriation therefor.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 39019 5 is added to the Health and Safety Code, to read:

39019 5 "Cogeneration technology" has the same meaning as defined in Section 25134 of the Public Resources Code.

SEC 2 Section 39019 6 is added to the Health and Safety Code, to read·

39019.6 "Cogeneration technology project" shall not include existing equipment owned or operated by the applicant or host industry which is not modified as a result of utilizing cogeneration technology.

SEC 3 Section 39050 5 is added to the Health and Safety Code, to read:

39050.5. "Resource recovery project" means a project which would convert liquid or solid waste in such a manner so as to produce energy as a byproduct.

SEC. 4 Chapter 1.5 (commencing with Section 41515) is added to Part 4 of Division 26 of the Health and Safety Code, to read:

CHAPTER 1.5. COGENERATION TECHNOLOGY AND RESOURCE RECOVERY PROJECTS

41515. The Legislature finds and declares (a) that present methods of generating and using energy in California result in substantial waste of such energy through the loss of exhaust steam and heat which is not recovered or otherwise put to use, and that this waste of energy results in adverse environmental and economic impacts and accelerates the need for new powerplant construction, (b) that the use of cogeneration technology can substantially increase the efficiency of energy use in California and can also result in environmental and economic benefits for the people of the state, and (c) that the expanded use of cogeneration technology is specifically encouraged as a matter of national energy policy through the tax and regulatory incentives provided in the National Energy Act, and through state legislation which encourages the expeditious approval of cogeneration projects.

41516. The Legislature further finds and declares (a) that the disposal of liquid and solid waste poses serious environmental and economic problems for local governments in California, (b) that resource recovery technology presently exists which can convert municipal waste to energy while also recovering substantial quantities of raw materials, (c) that the construction of resource recovery projects can help alleviate the environmental and economic problems associated with municipal waste disposal, while at the same time producing additional supplies of energy and raw materials, and (d) that such projects should therefore be encouraged as a matter of state policy.

41517 The Legislature further finds and declares that the 1977 amendments to the federal Clean Air Act specifically authorize local governments to provide for the mitigation of the air quality impact of projects with communitywide benefits, such as cogeneration technology and resource recovery projects, by providing regional growth increments in the state implementation plan.

41518 The state board shall develop, in cooperation with the districts and the Public Utilities Commission, an inventory of potential cogeneration technology projects in each air basin in the

state which could be constructed before 1987.

41519 The state board, in cooperation with the State Solid Waste Management Board, the districts and the regional planning agencies, shall develop an inventory of potential resource recovery projects which are planned or proposed to be constructed before 1987.

41520 In preparing the inventories required pursuant to Sections 41518 and 41519, the state board shall contract with private firms or utilize existing board staff, whichever costs less Both inventories shall be completed not later than July 1, 1980.

SEC 5 Section 41604 is added to the Health and Safety Code, to read:

41604. The state board, based on the recommendation of affected districts, shall prepare revisions to the State Implementation Plan, not later than January 1, 1981, and submit the revisions to the United States Environmental Protection Agency for approval. The revisions shall provide for the necessary mitigation of the air quality impact of projects identified pursuant to Sections 41518 and 41519, so that state and federal ambient air quality standards may be achieved and maintained or that reasonable further progress be made toward attainment.

SEC. 6 Section 42314 is added to the Health and Safety Code, to read·

42314 Notwithstanding any other provision of state law or local rules and regulations, the district shall issue a permit for the following·

(a) The construction of a cogeneration technology project, if all of the following conditions are met:

(1) The project produces 50 megawatts or less of electricity.

(2) The project will utilize the appropriate degree of pollution control technology required by the new source review rule of the district, where the project results in a net increase of any air pollutant emitted by the source. Where no net increase in emissions would occur, the project shall comply with applicable emission limitations.

(3) The project applicant owns or operates no facilities within the air basin which could be modified so as to provide sufficient offsets or mitigation of the air quality impact of the project. The applicant shall be required to provide offsets from any such facilities within the air basin to the extent they are available and would mitigate the project's impacts.

(b) The construction of a resource recovery project, if all of the following conditions are met.

(1) The project produces 50 megawatts or less of electricity

(2) The project will utilize the appropriate degree of pollution control technology required by the new source review rule of the district.

(3) The project applicant has, in the judgment of the district, made a good faith effort to secure all available emission offsets to mitigate the impact of the project, but that sufficient offsets or other mitigation measures are not available The applicant, however, shall

be required to secure all the offsets which are available to mitigate the air quality impact of the project, except for resource recovery projects which constitute a modification to an existing source under the district's new source review rule, in which case the applicant shall only be required to provide offsets from facilities which the applicant owns or operates within the air basin.

SEC. 7. Section 454.7 is added to the Public Utilities Code, to read:

454.7. The commission shall, to the extent permitted by federal law and consistent with Section 2771, provide cogeneration technology projects with the highest possible priority for the purchase of natural gas.

SEC. 8. There is hereby appropriated from the General Fund to the State Air Resources Board the sum of thirty thousand dollars ($30,000) for expenditure for purposes of Chapter 1.5 (commencing with Section 41515) of Part 4 of Division 26 of the Health and Safety Code

SEC. 9 (a) Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to those sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

(b) It is the intent of the Legislature that, with respect to any claims submitted for reimbursement to the Board of Control, the board closely review the extent to which districts have received reimbursements pursuant to Section 42311 of the Health and Safety Code and any revenues that accrue to a district pursuant to approval of projects pursuant to Section 42314 of that code

---

CHAPTER 923

An act to amend Sections 801 and 802 of the Business and Professions Code, relating to health

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 801 of the Business and Professions Code is amended to read

801 (a) Every insurer providing professional liability insurance to a person who holds a license, certificate or similar authority from or under any agency mentioned in subdivision (a) of Section 800

(except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) of Division 2) or the Osteopathic Initiative Act shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by such person's negligence, error or omission in practice, or rendering of unauthorized professional services. Such report shall be sent within 30 days after such written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of such arbitration award on the parties.

(b) Every insurer providing professional liability insurance to a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 or the Osteopathic Initiative Act shall send a complete report to the Board of Medical Quality Assurance or the Board of Osteopathic Examiners, as appropriate, as to any settlement or arbitration award over thirty thousand dollars ($30,000) of a claim or action for damages for death or personal injury caused by such person's negligence, error or omission in practice, or rendering of unauthorized professional services. Such report shall be sent within 30 days after such written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of such arbitration award on the parties.

(c) Notwithstanding any other provision of law, no insurer shall enter into such a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without such written consent. The requirement of written consent can only be waived by both the insured and the insurer. The provisions of this section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971

SEC 2. Section 802 of the Business and Professions Code is amended to read·

802. (a) Every settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services, by a person who holds a license, certificate or other similar authority from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) of Division 2) or the Osteopathic Initiative Act who does not possess professional liability insurance as to such claim shall, within 30 days after any such written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of such arbitration award on the parties, be reported to the agency which issued the license, certificate or similar authority A complete report shall be made by appropriate means by such person or his counsel, with a copy of such communication to be sent to the claimant

through his counsel if he is so represented, or directly if he is not. If, within 45 days of the conclusion of such written settlement agreement or service of such arbitration award on the parties, counsel for the claimant (or if he is not represented by counsel, the claimant himself) has not received a copy of the report, he shall himself make such a complete report. Failure of the physician or claimant (or, if represented by counsel, their counsel) to comply with the provisions of this section is a public offense punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(b) Every settlement or arbitration award over thirty thousand dollars ($30,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services, by a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2, or the Osteopathic Initiative Act, who does not possess professional liability insurance as to such claim shall, within 30 days after any such written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of such arbitration award on the parties, be reported to the agency which issued the license, certificate or similar authority. A complete report shall be made by appropriate means by such person or his counsel, with a copy of such communication to be sent to the claimant through his counsel if he is so represented, or directly if he is not. If, within 45 days of the conclusion of such written settlement agreement or service of such arbitration award on the parties, counsel for the claimant (or if he is not represented by counsel, the claimant himself) has not received a copy of the report, he shall himself make such a complete report. Failure of the physician or claimant (or, if represented by counsel, their counsel) to comply with the provisions of this section is a public offense punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

CHAPTER 924

An act to amend Sections 1 and 2 of Chapter 947 of the Statutes of 1977, relating to parks and recreation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 1 of Chapter 947 of the Statutes of 1977 is amended to read:

Section 1. Notwithstanding the provisions of Section 5098.2 of the Public Resources Code, the sum of three million dollars ($3,000,000), or so much thereof as may be necessary, 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 the restoration and conversion, including planning and working drawings, of the old administration building complex at Fresno City College as a San Joaquin Valley agricultural museum within the state park system. No money appropriated in this section may be encumbered unless and until the state is conveyed by gift or otherwise, full fee title in the building and its site; and unless and until the department, the City of Fresno, and the County of Fresno enter into an agreement for the joint operation and maintenance of the unit to be acquired pursuant to this act by the city and county, which agreement shall provide (1) that all revenues derived from the museum shall be expended by the city and county for the operation and maintenance of the museum, (2) that the state shall hold harmless the State Center Community College District from any liability in connection with the restoration and conversion, and (3) that, in the event the building is no longer used as a unit of the state park system, the state shall convey full fee title in the building and its site to the State Center Community College District. In addition, the department may expend the money appropriated in this section for the restoration and conversion, including planning and working drawings, of the old gymnasium at Fresno City College as a part of the museum if the department, the city, the county, and the district enter into an agreement regarding the terms and conditions under which the department takes title to the gymnasium, including such terms and conditions as will assure access to the boilerroom in the basement of the gymnasium to personnel of the district. Such agreement shall also include all of the provisions specified in clauses (1) to (3), inclusive, of this section.

SEC 2 Section 2 of Chapter 947 of the Statutes of 1977 is amended to read

Sec 2 The old administration building complex and the old

gymnasium shall be restored and converted in accordance with the provisions of the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code), and the administration building shall be restored and converted in accordance with the configuration of the structure depicted on page III-31 of the "Feasibility Study on Rehabilitation of the Old Administration Building at Fresno City College as an Agricultural Museum" (Fresno City and County Historical Society, February, 1977)

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

In order that an agreement for the joint operation of the old administration building complex at Fresno City College as a San Joaquin Valley agricultural museum within the state park system may be concluded and appropriated funds encumbered for the restoration and conversion of the complex which is threatened with demolition, it is necessary that this act take effect immediately.

CHAPTER 925

An act to amend Section 17216.2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 17216.2 of the Revenue and Taxation Code is amended to read·

17216.2 (a) The amount of any charitable contribution of property otherwise taken into account under Section 17214 shall be reduced by the sum of—

(1) The amount of gain which would have been included in taxable income, if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), except that this paragraph shall not apply if the amount of gain includable in taxable income is determined by applying paragraph (2) or (3) of subdivision (a) of Section 18162.5, and

(2) In the case of a charitable contribution—

(A) Of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under Section 23701 (or, in the case of a governmental unit, to any purpose or function described in Section 17214), or

(B) To or for the use of a private foundation (as defined in Section

509(a) of the Internal Revenue Code), other than a private foundation described in Section 170(b)(1)(E) of that code, the amount of gain which would have been included in taxable income under paragraph (2) or (3) of subdivision (a) of Section 18162.5 if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution).

For purposes of applying this subdivision (other than in the case of gain to which paragraph (1) of subdivision (d) of Section 17689.5, subdivision (a) of Section 18211, Section 18212, subdivision (c) of Section 18220, subdivision (a) of Section 18221, or subdivision (a) of Section 18219 applies), property which is property used in the trade or business (as defined in Section 18182), or artistic property described in subdivision (c) shall be treated as a capital asset.

(b) For purposes of subdivision (a), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in such property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Franchise Tax Board.

(c) For the purposes of this section, artistic property is property created by the personal efforts of the taxpayer if:

(1) At least 20 percent of the taxpayer's adjusted gross income for the taxable year or at least 50 percent of the taxpayer's adjusted gross income for any of the three prior taxable years is derived from the sale of artistic property created by the personal efforts of such taxpayer;

(2) The taxpayer is a resident of California (as defined in Section 17014) for the entire taxable year;

(3) The fair market value of the artistic property is established by independent appraisal; and

(4) The recipient of the artistic property is an organization exempt from tax pursuant to Section 23701d.

For the purposes of this section, the term "artistic property" includes musical, literary, and artistic creations but does not include letters, memoranda, or similar property which was written, prepared, or produced by, or for, the taxpayer while holding an office under the government of the United States or of any state or political subdivision thereof, if the writing, preparation, or production was related to, or arose out of, the performance of the duties of such office.

(d) The amendments to this section enacted by the Legislature at its 1979–80 Regular Session shall apply in the computation of taxes for taxable years beginning after December 31, 1979, and before January 1, 1985.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of Section 1 of this act shall be applied in the computation of taxes for taxable years beginning on or after the first day of the calendar year following the effective date of this act.

CHAPTER 926

An act to amend Section 1 of, and to add Sections 14, 15, and 16 to, Chapter 651 of the Statutes of 1929, relating to tidelands and submerged lands of the City of Los Angeles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 1 of Chapter 651 of the Statutes of 1929 is amended to read:

Section 1. There is hereby granted to the City of Los Angeles, hereinafter called "city", a municipal corporation of the State of California, and to its successors, all the right, title and interest of the State of California, held by said state by virtue of its sovereignty, in and to all tidelands and submerged lands, whether filled or unfilled, situated below the line of mean high tide of the Pacific Ocean, within the present boundaries of the city, or of any harbor, estuary, bay or inlet within said boundaries, except as hereinafter provided, to be forever held by the city, and by its successors, in trust for the uses and purposes, and upon the express conditions, following, to wit:

(a) That said lands shall be held by the city, and by its successors, in accordance with the applicable provisions of this act, for purposes in connection with, or for the promotion and accommodation of commerce, navigation and fishery, and in the case of such lands, other than those portions of the tidelands described in Section 138 of Article XI of the Charter of the City of Los Angeles, held for those purposes specified in Section 3 of this act.

(b) Except as otherwise provided in this act, the city, or its successors, shall not, at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purpose whatsoever; provided, that the city, or its successors, may grant franchises and permits thereon for limited periods, in any event not to exceed 50 years, for purposes in connection with, or for the promotion and accommodation of commerce, navigation, fishery, and for any purpose specified in Section 3 of this act, and may lease said lands, or any part thereof, for limited periods, in any event not to exceed 50 years, for any and all purposes which shall not interfere with the trusts upon which said lands are held by the State of California;

(c) That said tide and submerged lands shall be improved by the city without expense to the state, and any harbor constructed thereon shall always remain a public harbor for all purposes of commerce and navigation, and the State of California shall have, at all times, the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed by the city on said

lands, or any part thereof, for any vessel or other watercraft, or railroad, owned or operated by the State of California;

(d) That in the management, conduct or operation of any such harbor, or of any of the utilities, structures or appliances constructed in connection therewith no discrimination in rates, tolls, or charges, or in facilities, for any use or service in connection therewith shall ever be made, authorized or permitted by the city, or by its successors;

Reserving, however, in the people of the State of California, the absolute right to fish in said waters, with the right of convenient access to said waters over said lands for said purposes. The grant herein made shall not include those tidelands or submerged lands within those certain areas known as the Westgate addition acquired by the City of Los Angeles by annexation on June 14, 1916, or the Santa Monica canyon addition acquired by the City of Los Angeles by annexation on April 28, 1925, or the Venice addition acquired by the City of Los Angeles by consolidation on November 25, 1925.

SEC. 2 Section 14 is added to Chapter 651 of the Statutes of 1929, to read:

Sec. 14. The city may establish the ordinary high-water mark or the ordinary low-water mark of any of the lands hereby granted, by agreement, arbitration, or action to quiet title, whenever the city deems it expedient. Any establishment of an ordinary high-water mark or ordinary low-water mark by arbitration or agreement shall not be effective until approved by the State Lands Commission.

SEC 3. Section 15 is added to Chapter 651 of the Statutes of 1929, to read:

Sec. 15 (a) Whenever it shall appear to the city to be expedient and in the best interests of the state for the settlement of boundary and title disputes or for carrying out the purposes set forth in Sections 1 and 3 of this act, and it further appears that no substantial interference with the trust uses and purposes would ensue, the city may exchange with any state agency, political subdivision, person, entity or corporation, or the United States, or any agency thereof, lands for lands of equal or greater value located within the area described as follows:

That certain parcel of land situated in the "Wilmington District" of the City of Los Angeles, County of Los Angeles, State of California, more particularly described as follows:

Beginning at the intersection of the centerline of Anaheim Street with the northwesterly line of Alameda Street; thence easterly along the centerline of Anaheim Street to its intersection with the boundary line common to the City of Los Angeles and the City of Long Beach; thence southeasterly and southwesterly along the common boundary line to an angle point approximately on the south line of the Cerritos Channel; thence northwesterly along a straight line to the intersection of easterly prolongation of the south line of C Street with the northwesterly line of Alameda Street; thence northeasterly along the northwesterly line of Alameda Street to the

point of beginning. Any lands so acquired shall have the same status as to administration, control, and disposition as the lands for which they were exchanged.

(b) No such exchange shall be effective unless and until the State Lands Commission

(1) Finds that the lands to be acquired by the city are of equal or greater value than the lands for which they are to be exchanged.

(2) Approves the exchange.

(c) The lands exchanged by the city may be improved, filled, and reclaimed by the recipient thereof subject to all necessary approvals by local, regional, state, or federal entities. Upon the adoption of a resolution by the State Lands Commission finding and declaring that such lands have been improved, filled, and reclaimed, and have thereby been excluded from the public channels and are no longer available, useful, or susceptible of being used for navigation, fishing, and for other trust uses and purposes, and are no longer in fact tidelands or submerged lands, such lands shall thereupon be free from the public trust upon which they were held.

(d) Exchanges made pursuant to this section are hereby found to be of statewide significance and importance, and, therefore, any provision of any law, regulation, charter, or statute inconsistent with this section shall not be applicable to such exchange.

SEC 4. Section 16 is added to Chapter 651 of the Statutes of 1929, to read.

Sec 16 The provisions of Section 6359 of the Public Resources Code shall not apply to this act.

SEC 5 The Legislature affirms and finds that Chapter 651 of the Statutes of 1929 amended and superseded the provisions of Chapter 656 of the Statutes of 1911.

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:

A controversy has arisen over whether title to certain lands is in the City of Los Angeles by virtue of the grant of tidelands and submerged lands pursuant to Chapter 651 of the Statutes of 1929, as amended, or is in private ownership, clouding the title to such lands. This controversy is preventing the immediate expansion of port facilities which will further tide and submerged lands trust purposes and provide additional employment A resolution of this matter is possible if an agreement can be immediately concluded. The authority created by this act is required for such an agreement to be implemented.

For the foregoing reasons, it is necessary that this act take effect immediately.

CHAPTER 927

An act to amend Section 6956 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 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. 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, 1982, 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 ninety dollars ($390) for the 1979–80, 1980–81, and 1981–82 fiscal years.

(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 one hundred dollars ($100)

(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 twenty-five dollars ($25).

(13) An employee registration continuation fee of not more than twenty-five dollars ($25).

(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. 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 Bureau of Collection and Investigative Services has been unable to protect the public from illegal, unfair, or fraudulent debt collection practices by licensed collection agencies as mandated by Chapter 8 (commencing with Section 6850) of Division 3 of the Business and Professions Code because fund deficiencies have not allowed the bureau to employ persons whose duties are to perform collection agency investigations and audits Money derived from this act will allow the bureau to immediately employ persons whose primary task will be to perform field audits and investigations of licensed collection agencies as mandated by law.

CHAPTER 928

An act to repeal Section 3 of Chapter 456 of the Statutes of 1974, relating to taxation.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 3 of Chapter 456 of the Statutes of 1974, as amended by Section 2 of Chapter 1207 of the Statutes of 1975, is repealed.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 929

An act to amend Sections 35012, 35046, 35065, 35118, 35151, 35152, 35162, 35220.5, 35224.5, 35228, 35258, 35260, 35307, 35440, 50199, 54790, 54791, 56083, 56089, 56272, 56292, 56312, 56362, 56382, and 56412 of, to add Section 35111.5 to, and to repeal Sections 50197 and 50198 of, the Government Code, relating to municipal organization.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 35012 of the Government Code is amended to read:

35012. Notwithstanding the provisions of Section 35011, upon approval of the commission a city may annex noncontiguous territory not exceeding 160 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part If, after the completion of the annexation, the city sells such territory or any part thereof, all such territory which is no longer owned by the city shall cease to be a part of the city

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although such territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section to the contrary, a city which annexes territory pursuant to this section may annex additional territory which is owned by the United States government or the State of California and which is contiguous to such first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 160 acres in area. If after the completion of such subsequent annexation, the city sells all or any part of such first annexed territory, the subsequently annexed territory shall cease to be part of the city if it is no longer contiguous to territory owned by the city.

When territory ceases to be part of a city pursuant to this section, the legislative body of the city shall adopt a resolution confirming such detachment. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make such filing as is provided for by Chapter 4 (commencing with Section 35350).

If territory annexed to a city pursuant to this section becomes contiguous to such city, the limitations imposed by this section shall cease to apply.

SEC 2. Section 35046 of the Government Code is amended to read:

35046 "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, which. (i) has not been developed for a use other than an agricultural use and (ii) meets any of the following qualifications:

(a) Land which qualifies for rating as class I or class II in the Soil Conservation Service land use capability classification;

(b) Land which qualifies for rating 80 through 100 Storie Index Rating;

(c) 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 in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935;

(d) 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,

(e) 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

(f) Land which is used to maintain livestock for commercial

purposes.

SEC. 3. Section 35065 of the Government Code is amended to read:

35065. Within five days after a special election is called pursuant to this part, the conducting authority which has called the election shall transmit, by certified mail, a written notification of the election call to the executive officer of the local agency formation commission of the county in which the affected territory is located. Such written notice shall include a description of the boundaries of the affected territory as assigned by the commission. Written notice required by this section may be made in the form of a certified copy of the resolution adopted by the legislative body calling the election.

The executive officer shall submit to the commission, for its approval or modification, an impartial analysis of the proposed incorporation or change of organization.

The impartial analysis shall not exceed 400 words in length in addition to a general description of the boundaries of the territory affected.

The local agency formation commission shall approve or modify the analysis and submit it to the clerk of the legislative body conducting the election no later than the last day for submission of rebuttal arguments.

SEC. 4. Section 35111.5 is added to the Government Code, to read:

35111.5. If the petition is for incorporation, it may also include provisions for (a) appointment of a city manager, and (b) appointment of elective city officials, except city council members.

SEC. 5. Section 35118 of the Government Code is amended to read:

35118. Within 30 days after the date of filing a petition, the executive officer of the commission shall cause the petition to be examined and shall issue a certificate of sufficiency indicating whether it is signed by the requisite number of signers.

If the certificate of the executive officer shows the petition to be insufficient, he shall immediately give notice by certified mail of the insufficiency to the chief petitioners, if any. Such mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the certificate of insufficiency, a supplemental petition bearing additional signatures may be filed with the executive officer.

Within 10 days after the date of filing a supplemental petition, the executive officer shall examine the supplemental petition and certify in writing the results of his examination.

A certificate of sufficiency shall be signed by the executive officer and dated. Such certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the executive officer's examination.

SEC. 6. Section 35151 of the Government Code is amended to read:

35151. If a petition for an uninhabited annexation, an

uninhabited detachment, or for a municipal reorganization consisting solely of annexations or detachments of uninhabited territory, or both, shall be signed by all of the owners of land within the affected territory of the proposed change of organization or municipal reorganization, or if a resolution of application by a legislative body of an affected city or county making a proposal for an annexation or detachment, or for a municipal reorganization consisting solely of annexations or detachments, or both, shall be accompanied by proof, satisfactory to the commission, that all the owners of land within such territory have given their written consent to such change of organization or municipal reorganization, the commission may approve such change of organization or municipal reorganization without notice and hearing by the commission. In such cases the commission may also authorize the conducting authority to conduct proceedings for the change of organization or municipal reorganization (i) without notice and hearing by the conducting authority, (ii) without an election, or (iii) both.

The executive officer shall give each affected city mailed notice of the filing of any such petition or resolution of application. The commission shall not, without the written consent of each affected city, take any further action on such petition or resolution of application for 10 days following such mailing. Upon written request by an affected city, filed with the executive officer during such 10-day period, the commission shall make determinations upon said petition or resolution of application only after notice and hearing thereon. If no such request is filed, the commission may make such determinations without notice and hearing By written consent, which may be filed with the executive officer at any time, an affected city may (i) waive the requirement of such mailed notice, (ii) consent to the commission making such determinations without notice and hearing, or (iii) both.

"Landowners" or "owners of land" shall not include a public agency which owns highways, rights-of-way, easements, waterways, or canals.

SEC. 7. Section 35152 of the Government Code is amended to read.

35152. Upon accepting for filing a sufficient petition or a resolution of application, the executive officer shall issue a "certificate of filing" to the chief petitioners or the legislative body making the proposal. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal will be heard by the commission. Following issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice hereof as provided in this part. The date of such hearing shall be not more than 90 days after issuance of the certificate

SEC 8 Section 35162 of the Government Code is amended to read

35162 The conducting authority or any affected county, city,

district, landowner, voter, taxpayer, inhabitant, or other interested person desiring any addition, deletion, amendment, or revision of any commission resolution making determinations or of any term, condition, or other provision therein, including the boundaries of the affected territory determined and established by the commission, shall file written application therefor with the executive officer within 60 days of the adoption of the commission resolution, who shall present the same to the commission at its next regular meeting.

Once a request for a rehearing is filed with the executive officer, the conducting authority shall be notified by the executive officer, and the conducting authority shall not take final action until the commission has made a determination on the requested change.

Reconsideration of the application shall be made prior to final action of the conducting authority and in no case to exceed 60 days from the date of notification by the executive officer.

The commission, in its discretion, may either (a) without further notice and hearing, deny or approve such application in whole or in part, or (b) provide for notice and hearing upon said application in the same manner as for the original proposal, prior to denying or approving the same.

The determinations of the commission as specified in its resolution, or in any such amended resolution, including the commission's determinations as to boundaries of the affected territory, shall be final and conclusive, and no further changes shall be made except as provided in this section.

SEC. 9. Section 35220.5 of the Government Code is amended to read:

35220 5. No later than 35 days after receipt of notification by the conducting authority of the commission's resolution making determinations, the conducting authority of a city with a population of 1,000 or less within which 10 percent or less of the land area is zoned for residential uses may adopt a resolution terminating all pending proceedings in connection with any proposed annexation or detachment

SEC. 10 Section 35224.5 of the Government Code is amended to read·

35224.5. When approved and authorized by the commission pursuant to the provisions of subdivision (f) of Section 35150, the conducting authority shall, not later than 35 days after conclusion of the hearing, adopt a resolution ordering the annexation without an election or shall by resolution, terminate proceedings. The provisions of Sections 35225, 35226, 35227, 35228, and 35229 shall not apply to any annexation subject to the provisions of this section.

SEC. 10.5 Section 35228 of the Government Code is amended to read:

35228 When the territory proposed to be annexed or detached is inhabited, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and

taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory annexed or detached subject to the confirmation by the voters on the question, and call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to or detached from the city, if written protests have been filed and not withdrawn by either 25 percent or more of the registered voters within the territory, or 25 percent or more of the number of owners of land, who also own not less than 25 percent of the total assessed value of land within the territory.

(c) Order the territory annexed or detached without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters within the territory and less than 25 percent of the owners of land who own less than 25 percent of the total assessed value of land within the territory.

SEC. 11. 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, except as to offices designated as appointive pursuant to Section 35111.5, 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. 12 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;"

(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, and

(e) Provide for election of city officers in addition to city council

members, except as to offices designated as appointive pursuant to Section 35111.5.

SEC. 13. Section 35307 of the Government Code is amended to read:

35307. Where a proposed inhabited municipal reorganization consists solely of annexations or detachments, or both, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory reorganized subject to the confirmation by the voters on the question and call a special election and submit to the voters residing within the affected territory the question of whether it shall be reorganized, if written protests have been filed and not withdrawn by either 25 percent or more of the registered voters within the territory or 25 percent or more of the number of owners of land who also own not less than 25 percent of the total assessed value of land within the territory.

(c) Order the territory reorganized without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters within the territory and less than 25 percent of the number of owners of land who also own less than 25 percent of the total assessed value of land within the territory.

SEC 14. Section 35440 of the Government Code is amended to read:

35440. Except as otherwise provided in this article, upon and after the effective date of an incorporation, the territory incorporated, all inhabitants within such territory and all persons entitled to vote within such newly incorporated city by reason of residing therein, shall be subject to the jurisdiction of such city and shall have the rights and duties conferred on them as inhabitants and voters of such incorporated city.

SEC. 15. Section 50197 of the Government Code is repealed.

SEC 16 Section 50198 of the Government Code is repealed.

SEC. 17. Section 50199 of the Government Code is amended to read:

50199. From the date of execution of the certificate of completion by the executive officer of the local agency formation commission, the correction or alteration of boundaries is complete and effective for all purposes.

SEC. 18. Section 54790 of the Government Code is amended to read.

54790 The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To review and approve or disapprove with or without amendment, wholly partially or conditionally proposals for:

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6 of this code); provided that a commission shall not impose any conditions which would directly regulate land use or subdivision requirements. Nothing in this subsection, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed; provided that the commission shall not specify how or in what manner the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

(7) The development of new communities within the jurisdiction of the commission pursuant to Sections 33021 and 33298 of the Health and Safety Code.

(b) To adopt standards and procedures for the evaluation of proposals, including standards for each of the factors enumerated in Section 54796.

(c) To make and enforce rules and regulations for the orderly and fair conduct of hearings by the commission.

(d) To incur usual and necessary expenses for the accomplishment of its functions.

(e) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(f) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty thereof, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(g) To waive the restrictions of Section 35010 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(h) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to insure the health, safety or welfare of the area's residents and if it finds that such waiver would not affect the ability of a city to provide any service; provided, however, that within 60 days of the inclusion of the territory within the city, the governing body may adopt a resolution nullifying the waiver

SEC 19 Section 54791 of the Government Code is amended to read·

54791. Proceedings shall not be initiated until application is made

to, and accepted for filing by, the executive officer, and approval is given by the commission of the principal county. Any proponent, any legislative body, or any members of any legislative body, desiring to initiate proceedings shall submit an application to the executive officer of the principal county. An executive officer shall accept for filing, and file, any application submitted to him which is in the form prescribed by the commission and which contains all the information and data required pursuant to Section 54792 When an executive officer accepts an application for filing, he shall issue a "certificate of filing" to the proponent, legislative body or members of a legislative body submitting the application. A "certificate of filing" shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal will be heard by the commission. From the date of issuance of a certificate of filing, an application shall be deemed filed pursuant to this chapter.

If a special district is, or as a result of a proposed formation or annexation will be, located in more than one county, the executive officer of the principal county shall immediately furnish a copy of any application accepted for filing by him to the executive officer of each such other county.

SEC 20 Section 56083 of the Government Code is amended to read.

56083 Notice required to be published shall be published pursuant to Section 6061 in one or more newspapers of general circulation within each affected county, city and district. If any newspaper shall be of general circulation in two or more affected cities or districts, publication in said newspaper shall be sufficient publication for all such affected cities or districts. If there shall be two or more affected counties, publication shall be made in at least one newspaper of general circulation in each such county.

SEC. 21 Section 56089 of the Government Code is amended to read·

56089 When mailed notice is required to be given to:

(a) A county, city or district, it shall be addressed to the clerk thereof,

(b) A conducting district, it shall be given by certified mail, return receipt requested, and shall be addressed to the clerk thereof at the mailing address of the legislative body of such district as specified in the filing made pursuant to Section 53051,

(c) A commission, it shall be addressed to the executive officer thereof,

(d) Chief petitioners, it shall be addressed to the persons so designated in the petition at the address specified therein,

(e) Landowners, it shall be addressed to each person to whom land is assessed, as shown upon the last equalized assessment roll of the county, at the address shown upon such assessment roll,

(f) Persons requesting special notice, it shall be addressed to each person who shall have filed a written request for special notice with the executive officer or clerk, at the mailing address specified in the

request.

SEC. 22. Section 56272 of the Government Code is amended to read.

56272. The executive officer shall mail a certified copy of the commission's resolution making determinations addressed to:

(a) The chief petitioners, if any, where the proceedings for change of organization were initiated by petition;

(b) Each affected county, city or district;

(c) Each conducting district, by certified mail, return receipt requested.

In addition, where such resolution relates to consolidation, dissolution, a merger, the establishment of a subsidiary district or a reorganization, the executive officer shall file a certified copy thereof with the clerk of the principal county

SEC 23. Section 56292 of the Government Code is amended to read:

56292. Following receipt of a copy of the commission's resolution making determinations, the clerk of the county or of the conducting district, as the case may be, shall present such resolution to the board of supervisors or to the board of directors of such district. Not later than 35 days after the date of adoption of said commission's resolution, the legislative body of the county or a conducting district, shall adopt a resolution initiating proceedings in compliance with said commission's resolution. A copy of the resolution initiating proceedings shall, immediately upon adoption, be mailed by the clerk of the conducting authority to the executive officer of the commission.

SEC. 24 Section 56312 of the Government Code is amended to read:

56312. The clerk of the conducting district shall also give mailed notice of any such hearing as provided in Sections 56087 to 56089, inclusive, by mailing notice of hearing·

(a) In the case of a benefit district, to all landowners owning land within the territory proposed to be annexed or detached,

(b) To all persons and counties, cities or districts, which shall have theretofore filed a written request for special notice with the clerk of the conducting district; and

(c) To the executive officer of the local agency formation commission.

SEC 25 Section 56362 of the Government Code is amended to read.

56362 The clerk of the county shall also give mailed notice of any such hearing, as provided in Sections 56087 to 56089, inclusive, by mailing notice of hearing to

(a) Each affected county, city or district,

(b) The chief petitioners, if any;

(c) Each person who shall have filed a request for special notice with the clerk of the county; and

(d) The executive officer of the local agency formation

commission.

SEC. 26. Section 56382 of the Government Code is amended to read·

56382 The clerk of the county shall also give mailed notice of any such hearing, as provided in Sections 56087 to 56089, inclusive, by mailing notice of hearing to:

(a) Each district proposed to be consolidated;

(b) Other affected counties, cities and districts;

(c) Each person who shall have filed a request for special notice with the clerk of the county; and

(d) To the executive officer of the local agency formation commission.

SEC. 27. Section 56412 of the Government Code is amended to read

56412 The clerk of the county shall also give mailed notice of any such hearing, as provided in Sections 56087 to 56089, inclusive, by mailing notice of hearing to:

(a) Each city and district which is the subject of the proposed merger or establishment of a subsidiary district;

(b) Other affected counties, cities and districts;

(c) Each person who shall have filed a request for special notice with the clerk of the county; and

(d) The executive officer of the local agency formation commission.

SEC 28 Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 930

An act to amend Sections 31107, 31201, 31206, 31207, 31207.1, 31208, 31210, 31213, 31252, 31255, 31255 1, 31257, 31258, 31263, 31354, 31402, 31403, 31404, and 31405 of, to add Sections 30525, 31013, 31100 5, and 31115 to, to repeal Section 31256 of, and to repeal Chapter 7 (commencing with Section 31300) of Division 21 of, the Public Resources Code, relating to coastal resources, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 30525 is added to the Public Resources Code, to read:

30525. (a) Every state agency that owns or manages land or water areas within the coastal zone, including public beaches, parks, natural areas, and fish and wildlife preserves, shall identify the sensitive resource values within such areas that are particularly susceptible to adverse impacts from nearby development that is not carefully planned. Every such agency shall also identify the location and type of development that would have a significant adverse impact on such sensitive resource values.

(b) Every agency subject to the provisions of this section shall advise the appropriate local government and regional commission of particular considerations that should be evaluated during the preparation of a local coastal program and which, in the opinion of such agency, may be necessary to protect identified sensitive resource values. In addition, the work undertaken pursuant to this section shall be completed in a timely manner in order to maximize the opportunity for the public, affected local governments, the affected regional commission, and the commission to consider this information fully during the preparation, review, and approval of the appropriate local coastal program.

(c) Work already completed pursuant to former Chapter 7 (commencing with Section 31300) of Division 21 of the Public Resources Code, added by Chapter 1441 of the Statutes of 1976, and in conformity with the provisions of this section, that identifies sensitive resource values within publicly owned or managed land and water areas of the coastal zone shall be considered by local government and the regional commissions in the course of carrying out the provisions of this chapter.

(d) For purposes of this section, "sensitive resource values" means those fragile or unique natural resources which are particularly susceptible to degradation resulting from surrounding development, the adverse effects of which have not been carefully evaluated, mitigated, or avoided. Examples include, but are not limited to, environmentally sensitive areas, as defined in Section 30107.5, areas uniquely suited for scientific or educational purposes, and specific public recreation areas where the quality of the recreational experience is dependent on the character of the surrounding area

SEC 1 5 Section 31013 is added to the Public Resources Code, to read:

31013. "Nonprofit organization" means any private, nonprofit organization, existing under the provisions of Section 501(c)(3) of the United States Internal Revenue Code, which has among its principal charitable purposes the preservation of land for scientific, historic, educational, recreational, scenic, or open-space opportunities

SEC 2 Section 31100.5 is added to the Public Resources Code, to

read:

31100.5. Three Members of the Senate, appointed by the Senate Rules Committee, and three Members of the Assembly, appointed by the Speaker of the Assembly, shall meet with the conservancy and participate in its activities to the extent that such participation is not incompatible with their respective positions as Members of the Legislature.

SEC. 2 3. 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, exchange, or otherwise transfer any land, interest therein, or option 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. Proceeds from any such lease, rental, sale, exchange, or transfer of land, interest therein, or option thereon, shall be deposited with the conservancy and shall be available for expenditure when appropriated by the Legislature for the purpose of funding the programs specified in this division

SEC. 2 5. Section 31115 is added to the Public Resources Code, to read:

31115. When a state agency that owns or manages land or water areas within the coastal zone has identified sensitive resource values and locations and types of development pursuant to Section 30525, and when the commission has certified that acquisition of less than fee title in land or water areas within the coastal zone is consistent with the provisions of Division 20 (commencing with Section 30000) and is necessary to ensure protection of sensitive resource values, the conservancy may award a grant or grants to such state agency for the purpose of acquisition of less than fee title in such land or water areas pursuant to the Property Acquisition Law (commencing with Section 15850 of the Government Code) Grants made pursuant to this section may not be used as a method of acquisition of land or water areas that are intended to be an integral part of a public land holding.

SEC 3 Section 31201 of the Public Resources Code is amended to read

31201 All areas proposed for restoration by a local public agency or by the conservancy shall be identified in a certified local coastal plan or program as requiring public action to resolve existing or potential development problems or shall be so identified in other local plans which the commission determines to be consistent with the policies and objectives of Division 20 (commencing with Section 30000)

SEC 4 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.

SEC. 5. Section 31207 of the Public Resources Code is amended to read

31207. Following approval of a proposed coastal restoration project by the conservancy, the conservancy may provide up to fifty thousand dollars ($50,000) of the cost of preparing local coastal restoration plans.

SEC. 6. Section 31207.1 of the Public Resources Code is amended to read

31207 1. Notwithstanding any other provision of law, 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 7. Section 31208 of the Public Resources Code is amended to read·

31208. Following completion of a coastal restoration plan, the conservancy shall forward the proposed plan to the commission for determination of conformity of such plan with the policies and objectives of Division 20 (commencing with Section 30000). The commission shall have 60 days to review the project and transmit the findings on such plan to the conservancy. If no comments are received within such period, the restoration plan shall be deemed to be in accord with Division 20 (commencing with Section 30000).

SEC. 8 Section 31210 of the Public Resources Code is amended to read

31210 Costs of providing parks, open space, or other public areas and facilities may be included as project costs within coastal restoration areas, if they are designed to serve the residents of the restoration area and do not constitute a disproportionate share of the total project cost Costs of providing public coastal access sites and scenic easements serving the public may be permitted as project costs where such features are part of a coastal restoration plan approved as provided in Section 31208.

SEC 9 Section 31213 of the Public Resources Code is amended to read

31213 Where a local public agency is unable or unwilling to undertake restoration of any area, the conservancy may undertake such restoration; provided, that a coastal restoration plan for the area has been prepared by the conservancy and approved as provided, in Section 31208

SEC 10 Section 31252 of the Public Resources Code is amended to read

31252 All areas proposed for resource enhancement by a local

public agency or a state agency shall be identified in a certified local coastal plan or program as requiring public action to resolve existing or potential resource protection problems or shall be so identified in other local plans which the commission determines to be consistent with the policies and objectives of Division 20 (commencing with Section 30000)

SEC. 11. 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.

SEC. 12. Section 31255.1 of the Public Resources Code is amended to read

31255.1. Notwithstanding any other provision of law, 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 division. The cost of such option shall not exceed one hundred thousand dollars ($100,000)

SEC. 13 Section 31256 of the Public Resources Code is repealed.

SEC. 14 Section 31257 of the Public Resources Code is amended to read

31257 Following approval of a proposed coastal resource enhancement project by the conservancy, the conservancy may provide up to fifty thousand dollars ($50,000) of the cost of preparing local coastal resource enhancement plans.

SEC. 15. Section 31258 of the Public Resources Code is amended to read:

31258. Following completion of a coastal resource enhancement plan, the conservancy shall forward the plan to the commission for determination of conformity of the plan with the policies and objectives of Division 20 (commencing with Section 30000). The commission shall have 60 days to review the project and transmit findings on such plan to the conservancy If no comments are received at the end of such period, the plan shall be deemed to be in accord with Division 20 (commencing with Section 30000).

SEC. 16 Section 31263 of the Public Resources Code is amended to read

31263 If a local public agency or state agency is unable or unwilling to undertake improvement of a deteriorating area, the conservancy may undertake such coastal resource enhancement if a coastal resource enhancement plan for the area has been prepared by the conservancy and approved as provided in Section 31258

SEC 16 5 Chapter 7 (commencing with Section 31300) of Division 21 of Public Resources Code is repealed

SEC 17 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, or in any local plan which the commission determines to be consistent with the policies and objectives of Division 20 (commencing with Section 30000). At any time during such period, a nonprofit organization may acquire such lands if the city or county within which the lands are located approves such acquisition, and if the instrument of conveyance of such lands to a nonprofit organization includes a restriction permanently limiting use of such lands to the public purposes indicated in a certified approved plan or program. The acquisition price to local agencies or to nonprofit organizations 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 or nonprofit organization 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. 18 Section 31402 of the Public Resources Code is amended to read:

31402 In order to assure that an adequate system of public accessways is provided along the entire coastline, the department or the conservancy may acquire fee title or lesser interests in areas required for public access to significant coastal resources. The department may develop and maintain such areas.

SEC 19. Section 31403 of the Public Resources Code is amended to read.

31403. The department or the conservancy may not acquire any public access site under the power of eminent domain unless such acquisition is approved by the Legislature as part of its annual approval of the Budget Act.

SEC 20 Section 31404 of the Public Resources Code is amended to read

31404 When another local public agency is unable or unwilling to take title to an area required for public access to and along the coastline, the department or the conservancy may accept title to such an area. The department or the conservancy, however, shall not

be required to open any area for public use when, in its estimation, the benefits of public use would be outweighed by the costs of development and maintenance. The department or the conservancy shall make a determined effort to identify local public agencies which will accept responsibility for maintenance and liability for public accessways which are located outside of the state park system. The department or the conservancy may lease any public access site to a public agency, provided, however, that the conditions of such transfer guarantee public use of the site for access to coastal resources

SEC. 21. Section 31405 of the Public Resources Code is amended to read.

31405 The department or the conservancy may accept from any state or local public agency fees collected for purposes of providing public access to coastal resources. Any funds collected from such source shall be expended by the department or the conservancy for the sole purpose of acquisition, development, and maintenance of public accessways to the coastline. To the maximum extent possible, such fees shall be expended in the general area where they are collected or in areas where public access to and along the coastline is clearly deficient. The department or the conservancy may transfer funds, including such fees, to a local public agency for the purposes of acquisition of sites for public access to and along the coastline.

SEC 22. This act is an urgency statute necessary for the immediate preservation of the public peace, 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 the loss of revenues to the revolving fund account of the State Coastal Conservancy with the resulting inability of the conservancy to fulfill its legislative mandate, it is necessary that this act take effect immediately.

CHAPTER 931

An act to amend Section 4630 of the Welfare and Institutions Code, relating to the developmentally disabled.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 4630 of the Welfare and Institutions Code is amended to read·

4630 The contract between the state and the contracting agency shall not·

(a) Require information that violates client confidentiality.

(b) Prevent a regional center from employing innovative

programs, techniques, or staffing arrangements which may reasonably be expected to enhance program effectiveness.

(c) Contain provisions which impinge upon the legal rights of private corporations chartered under California statutes.

(d) Prevent the right of employees of a regional center to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. Nothing in this subdivision shall be construed to limit the state's authority to contract within available funds pursuant to Section 4621 or to obligate the state to appropriate funds in excess of those appropriated in the then current Budget Act.

CHAPTER 932

An act to amend Section 20012 of the Vehicle Code, relating to records.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 20012 of the Vehicle Code is amended to read:

20012. All required accident reports, and supplemental reports, shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department of Motor Vehicles and the Department of the California Highway Patrol, except that the Department of the California Highway Patrol or the law enforcement agency to whom the accident was reported shall disclose the entire contents of the reports, including, but not limited to, the names and addresses of persons involved in, or witnesses to, an accident, the registration numbers and descriptions of vehicles involved, the date, time and location of an accident, all diagrams, statements of the drivers involved in the accident and the statements of all witnesses, to any person who may have a proper interest therein, including, but not limited to, the driver or drivers involved, or the legal guardian thereof, the parent of a minor driver, the authorized representative of a driver, or to any person injured therein, the owners of vehicles or property damaged thereby, persons who may incur civil liability, including liability based upon a breach of warranty arising out of the accident, and any attorney who declares under penalty of perjury that he represents any of the above persons.

A request for a copy of an accident report shall be accompanied by payment of a fee, provided such fee shall not exceed the cost of

providing such copy

SEC 2. Section 20012 of the Vehicle Code is amended to read:

20012. All required accident reports, and supplemental reports, shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department of Motor Vehicles and the Department of the California Highway Patrol, except that the Department of the California Highway Patrol or the law enforcement agency to whom the accident was reported shall disclose the entire contents of the reports, including, but not limited to, the names and addresses of persons involved in, or witnesses to, an accident, the registration numbers and descriptions of vehicles involved, the date, time and location of an accident, all diagrams, statements of the drivers involved in the accident and the statements of all witnesses, to any person who may have a proper interest therein, including, but not limited to, the driver or drivers involved, or the guardian or conservator thereof, the parent of a minor driver, the authorized representative of a driver, or to any person injured therein, the owners of vehicles or property damaged thereby, persons who may incur civil liability, including liability based upon a breach of warranty arising out of the accident, and any attorney who declares under penalty of perjury that he represents any of the above persons

A request for a copy of an accident report shall be accompanied by payment of a fee, provided such fee shall not exceed the cost of providing such copy

SEC 3 It is the intent of the Legislature, if this bill and Assembly Bill 167 are both chaptered and become effective January 1, 1980, both bills amend Section 20012 of the Vehicle Code, and this bill is chaptered after Assembly Bill 167, that Section 20012 of the Vehicle Code, as amended by Section 1 of this act shall remain operative only until the operative date of Assembly Bill 167, and that on the operative date of Assembly Bill 167 Section 20012 of the Vehicle 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 20012 proposed by Assembly Bill 167 Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill 167 are both chaptered and become effective January 1, 1980, both bills amend Section 20012, and this bill is chaptered after Assembly Bill 167, in which case Section 2 of this act shall become operative on the operative date of Assembly Bill 167.

CHAPTER 933

An act to amend Sections 2741, 2761, and 2815 of the Business and Professions Code, relating to nurses, and making an appropriation therefor

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 2741 of the Business and Professions Code is amended to read:

2741. An applicant who fails to pass the examination may be reexamined within such period of time as the board, by regulation, deems appropriate in the subjects in which he or she failed upon payment of the fee prescribed by this chapter for the filing of an original application

SEC 2. Section 2761 of the Business and Professions Code is amended to read:

2761. The board may take disciplinary action against a licensed nurse or an applicant for a license for:

(a) Unprofessional conduct, which includes but is not limited to the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions

(2) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code, in which event the record of conviction shall be conclusive evidence thereof.

(3) The use of advertising relating to nursing which violates Section 17500 of this code.

(b) Procuring his certificate by fraud, misrepresentation, or mistake

(c) Procuring, or aiding, or abetting, or attempting, or agreeing, or offering to procure or assist at a criminal abortion.

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or regulations adopted pursuant to it.

(e) Making or giving any false statement or information in connection with the application for issuance of a license.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof

(g) Impersonating any applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license

(h) Impersonating another licensed practitioner, or permitting or allowing another person to use his certificate for the purpose of nursing the sick or afflicted.

(i) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13,

Chapter 5, Division 2 of this code.

(j) Holding oneself out to the public or to any practitioner of the healing arts as a "nurse practitioner" or as meeting the standards established by the board for a nurse practitioner unless meeting the standards established by the board pursuant to Article 8 (commencing with Section 2834) of this chapter

(k) Revocation or suspension of a license to practice nursing by another state or territory of the United States for any act or omission which would constitute grounds for the revocation or suspension of a license in this state

SEC. 3. Section 2815 of the Business and Professions Code is amended to read.

2815 Subject to the provisions of Section 128, as amended by Chapter 863 of the 1973 Statutes, the amount of the fees prescribed by this chapter in connection with the issuance of licenses for registered nurses under its provisions is that fixed by the following schedule:

(a) The fee to be paid upon the filing of an application for a license shall be thirty-five dollars ($35).

(b) The fee to be paid for approval of a continuing education course shall be fixed by the board at not more than fifty dollars ($50).

(c) The biennial fee to be paid upon the filing of an application for renewal of the license shall be not more than sixteen dollars ($16)

(d) The fee to be paid upon the filing of an application for the examination taken in lieu of a continuing education program shall be fixed by the board to compensate for the cost of preparation and administration of the examination, but in no case shall exceed fifty dollars ($50)

(e) The penalty fee for failure to renew a license within the prescribed time shall be fixed by the board at not more than 50 percent of the regular renewal fee, but not more than twenty-five dollars ($25)

(f) The penalty for submitting insufficient funds or fictitious check, draft or order on any bank or depository for payment of any fee to the board shall be five dollars ($5).

(g) The fee to be paid for an interim permit shall be ten dollars ($10).

(h) The fee to be paid for a temporary license shall be ten dollars ($10)

(i) The fee to be paid for rescoring an examination shall be ten dollars ($10)

(j) The fee to be paid for processing endorsement papers to other states shall be fifteen dollars ($15).

(k) The fee to be paid for a certified copy of a school transcript shall be ten dollars ($10).

(*l*) The fee to be paid upon the request by a registered nurse for an evaluation of his or her qualifications to use the title "nurse practitioner" shall be fixed by the board at not more than fifty dollars ($50)

No further fee shall be required for a license or a renewal thereof other than as prescribed by this chapter.

CHAPTER 934

An act to add Article 2.5 (commencing with Section 65864) to Chapter 4 of Title 7 of the Government Code, relating to development.

[Approved by Governor September 21, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Article 2 5 (commencing with Section 65864) is added to Chapter 4 of Title 7 of the Government Code, to read:

Article 2.5 Development Agreements

65864 The Legislature finds and declares that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public

(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.

65865. Any city, county, or city and county, may enter into a development agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this article. Every city, county, or city and county, may, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the property owner or other person having a legal or equitable interest in the property.

65865 1 Procedures established pursuant to Section 65865 shall include provisions requiring periodic review at least every 12 months, at which time the applicant, or successor in interest thereto, shall be required to demonstrate good faith compliance with the terms of the agreement If, as a result of such periodic review, the local agency finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with terms or conditions of the agreement,

the local agency may terminate or modify the agreement.

65865.2. A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time.

65865 4. Unless amended or canceled pursuant to Section 65868, a development agreement shall be enforceable by any party thereto notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the city, county, or city and county entering such agreement, which alters or amends the rules, regulations or policies specified in Section 65866.

65866. Unless otherwise provided by the development agreement, rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications, applicable to development of the property subject to a development agreement, shall be those rules, regulations, and official policies in force at the time of execution of the agreement. A development agreement shall not prevent a city, county, or city and county, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor shall a development agreement prevent a city, county, or city and county from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.

65867 A public hearing on an application for a development agreement shall be held by the advisory agency and by the legislative body. Notice of intention to consider adoption of a development agreement shall be given as provided in Sections 65854, 65854.5, and 65856 in addition to such other notice as may be required by law for other actions to be considered concurrently with the development agreement.

65867.5 A development agreement is a legislative act which shall be approved by ordinance and is subject to referendum. A development agreement shall not be approved unless the legislative body finds that the provisions of the agreement are consistent with the general plan and any applicable specific plan.

65868. A development agreement may be amended, or canceled in whole or in part, by mutual consent of the parties to the agreement

or their successors in interest. Notice of intention to amend or cancel any portion of the agreement shall be given in the manner provided by Section 65867. An amendment to an agreement shall be subject to the provisions of Section 65867.5.

65868.5. No later than 10 days after a city, county, or city and county enters into a development agreement, the clerk of the legislative body shall record with the county recorder a copy of the agreement, which shall describe the land subject thereto. From and after the time of such recordation, the agreement shall impart such notice thereof to all persons as is afforded by the recording laws of this state. The burdens of the agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

65869. A development agreement shall not be applicable to any development project located in an area for which a local coastal program is required to be prepared and certified pursuant to the requirements of Division 20 (commencing with Section 30000) of the Public Resources Code, unless: (1) the required local coastal program has been certified as required by such provisions prior to the date on which the development agreement is entered into, or (2) in the event that the required local coastal program has not been certified, the California Coastal Commission approves such development agreement by formal commission action.

65869.5. In the event that state or federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

CHAPTER 935

An act to amend Section 2950 of, and to add Sections 2952, 2952.1, and 2952.2 to the Health and Safety Code and to add Section 20017 to the Vehicle Code, relating to pesticides.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 2950 of the Health and Safety Code is amended to read:

2950. Any physician and surgeon who knows, or has reasonable cause to believe, that a patient is suffering from pesticide poisoning or any disease or condition caused by a pesticide shall promptly report such fact to the local health officer by telephone within 24 hours and by a copy of the report required pursuant to subdivision

(a) of Section 6409 of the Labor Code within seven days, except that the information which is available to the physician and surgeon is all that is required to be reported as long as reasonable efforts are made to obtain such information.

Each local health officer shall immediately notify the county agricultural commissioner and, at his or her discretion, shall immediately notify the state department of each such report received and shall report to the Director of Food and Agriculture, the State Director of Health Services, and the Director of Industrial Relations, on a form prescribed by the State Director of Health Services, each case reported to him pursuant to this section within seven days after receipt of any such report.

The state department shall designate a phone number or numbers for use by local health officers in the immediate notification of the state department of a pesticide poisoning report. The state department shall from time to time establish criteria for use by the local health officers in determining whether the circumstances of a pesticide poisoning warrants the immediate notification of the state department.

In no case shall the treatment administered for pesticide poisoning or a condition suspected as pesticide poisoning be deemed to be first aid treatment.

Any physician and surgeon who fails to comply with the reporting requirements of this section or any regulations adopted pursuant to this section shall be liable for a civil penalty of two hundred fifty dollars ($250). For the purposes of this section, failure to report a case of pesticide poisoning involving one or more employees in the same incident shall constitute a single violation. The Division of Occupational Safety and Health of the Department of Industrial Relations shall enforce these provisions by issuance of a citation and notice of civil penalty in a manner consistent with Section 6317 of the Labor Code. Any physician and surgeon who receives a citation and notice of civil penalty may appeal to the Occupational Safety and Health Appeals Board in a manner consistent with Section 6319 of the Labor Code.

Each local health officer shall maintain the ability to receive and investigate reports of pesticide poisoning at all times pursuant to Section 12982 of the Food and Agricultural Code.

SEC. 2. Section 2952 is added to the Health and Safety Code, to read:

2952 Any public employee, as defined in Section 811.4 of the Government Code, whose responsibilities include matters relating to health and safety, protection of the environment, or the use or transportation of any pesticide and who knows, or has reasonable cause to believe, that a pesticide has been spilled or otherwise accidentally released, shall promptly notify the local health officer or the notification point specified in the local hazardous materials response plan, where such a plan has been approved by the State Office of Emergency Services and is in operation The operator of

the notification point shall immediately notify the local health officer of the pesticide spill report.

The local health officer shall immediately notify the county agricultural commissioner and, at his or her discretion, shall immediately notify the state department of each such report received. Within seven days after receipt of any such report, the local health officer shall notify the Director of Food and Agriculture, the State Director of Health Services, and the Director of Industrial Relations, on a form prescribed by the State Director of Health Services, of each case reported to him or her pursuant to this section.

The state department shall designate a phone number or numbers for use by local health officers in the immediate notification of the state department of a pesticide spill report. The state department shall from time to time establish criteria for use by the local health officers in determining whether the circumstances of a pesticide spill warrants the immediate notification of the state department.

SEC. 3. Section 2952.1 is added to the Health and Safety Code, to read

2952 1 The State Director of Health Services shall maintain a file of all the reporting forms received from local health officers pursuant to Section 2952 of this code at the repository of current data on toxic materials established pursuant to Section 147.2 of the Labor Code. Such file shall be open to the public and shall be indexed at least to the extent of the following:

(a) The county of the accidental release.

(b) The type of pesticide involved.

SEC 4. Section 2952 2 is added to the Health and Safety Code, to read

2952 2. Each public employer of a public employee subject to the provisions of Section 2952 shall post in one or more prominent places frequented by such employee a notice informing such employee of the responsibility imposed by Section 2952.

SEC 5 Section 20017 is added to the Vehicle Code, to read·

20017 Any peace officer who knows, or has reasonable cause to believe, that a pesticide has been spilled or otherwise accidentally released, shall report such spill as required in Section 2952 of the Health and Safety Code

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 936

An act to amend Section 13159.6 of the Health and Safety Code, relating to fire service training.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 13159.6 of the Health and Safety Code is amended to read:

13159.6. This article 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.

CHAPTER 937

An act to repeal Section 58509 of the Food and Agricultural Code, and to amend Sections 17202.4 and 24343.7 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 58509 of the Food and Agricultural Code is repealed.

SEC. 2. Section 17202.4 of the Revenue and Taxation Code is amended to read:

17202.4. In addition to the deduction allowed for trade or business expenses and any other deductions allowed by this part, a taxpayer who donates agricultural products under Chapter 5 (commencing with Section 58501), Part 1, Division 21 of the Food and Agricultural Code shall be allowed as a deduction an amount equal to the cost of any such products.

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

SEC. 3. Section 24343.7 of the Revenue and Taxation Code is amended to read:

24343.7. In addition to the deduction allowed for trade or business expenses and any other deductions allowed by this part, a taxpayer who donates agricultural products under Chapter 5 (commencing with Section 58501), Part 1, Division 21 of the Food and Agricultural Code shall be allowed as a deduction an amount

equal to the cost of any such products.

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

SEC. 3.5. On or before November 30, 1982, the Franchise Tax Board shall furnish the Legislature a report as to the effectiveness of this act in stimulating additional contributors of agricultural products and the amount of state revenues affected thereby.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 938

An act to add and repeal Article 3 (commencing with Section 18030) to Chapter 1 of Part 1 of Division 5 of Title 2 of the Government Code, relating to employment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Article 3 (commencing with Section 18030) is added to Chapter 1 of Part 1 of Division 5 of Title 2 of the Government Code, to read:

Article 3. Reduced Worktime Program

18030. The Legislature finds and declares that, notwithstanding the fact that a reduction in the overall personnel budget of state government may be found necessary and prudent in the course of events, it is in the public interest to provide the highest quality of service to the taxpayers of California. Providing that service requires, among other things, the maintenance of high morale among public employees, the ability to attract the most competent and dedicated new employees to public service in the years ahead, as well as to preserve to the maximum extent the pool of skilled employees now in public service. Therefore, it is the intent of the Legislature in enacting this article to maximize the preservation of employment opportunities of public servants, to the extent that budgetary and

efficiency objectives may be achieved, with a minimum of layoffs or other avoidable dislocations of careers.

18031. In the event that a reduction in the personnel of departments and agencies of state government, equivalent to 1 percent or more of full-time equivalent jobs is contemplated in a single fiscal year, and only in such circumstances, each department or agency affected by such reductions shall permit employees to voluntarily reduce worktime on a basis consistent with administrative feasibility in order that employment opportunities will be preserved to the extent possible through a redistribution of workload. This article shall not be construed as a job creation program, nor shall any program be operated under this article which results in an increase in the total number of employees over levels existing in a participating department or agency during the fiscal year immediately preceding the fiscal year for which personnel reductions described in this section are contemplated.

18032 If the State Personnel Board determines that a personnel reduction, as described in Section 18031, is contemplated by the Governor's Budget, it shall conduct or direct each affected department or agency to conduct a survey of all permanent full-time employees to determine the extent of the desire of such employees to participate in a voluntary reduced worktime program.

18033. The survey required under Section 18032 shall contain information clearly informing employees as to the terms and conditions under which voluntary reduced worktime options would be available including, but not limited to, potential worktime options, the effect such a reduction would have on benefits, and the right to return to full-time work to the extent such work is available as specified in subdivisions (b), (c), and (d), respectively, of Section 18034

18034. (a) Reduced worktime shall be permitted to the extent that it (1) contributes, through reducing costs, to the preservation of employment opportunities that would otherwise be eliminated because of the contemplated budget reduction, (2) is found administratively feasible and within the guidelines of the State Personnel Board by the appointing authority of the department for which an employee works, and (3) reflects the findings of, and is consistent with, the survey conducted pursuant to Section 18032.

(b) Reduced worktime options may be available in the form of fewer hours of work per day, or fewer days of work per year either on a regular basis such as a four-day workweek or on an irregular but planned basis such as occasional days off or an extended vacation.

(c) Voluntary worktime reductions shall result in a pro rata reduction of compensation to participating employees.

(d) Participating employees shall, upon request, be given first priority for returning to a full-time schedule to the extent that such full-time work is available. Participating employees shall return to full-time employment at the request of the appointing authority pursuant to regulations adopted by the State Personnel Board which

shall:

(1) Define conditions under which such a request by the appointing authority is appropriate, and

(2) Provide a reasonable grace period for allowing an employee to make necessary personal arrangements for returning to full-time employment.

(e) If layoff becomes unavoidable, employees who participate in a voluntary reduced worktime program pursuant to this article shall not routinely be subject to layoff ahead of full-time employees. Such part-time employees shall be subject to the same seniority and other layoff considerations as full-time employees in determining the order of layoff.

18035. The State Personnel Board, in preparing to conduct and interpreting the results of the survey required by this chapter, and any department or agency of state government undertaking to design and implement a voluntary reduced worktime program for its employees pursuant to this chapter, may request technical assistance relating to reduced worktime concepts, methods, and programs from the Employment Development Department pursuant to the provisions of Resolution Chapter 103 of the Statutes of 1978.

18036. The State Personnel Board shall adopt appropriate rules and guidelines relating to reduced worktime programs which shall include, but not be limited to, guidelines for determining the minimum time to be worked by participating employees, and guidelines for determining the administrative feasibility of particular reduced worktime programs.

18037. Results of any survey conducted pursuant to Section 18032 and plans for implementation of any voluntary reduced worktime program to preserve employment opportunities pursuant to Section 18031 shall be transmitted forthwith to the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the fiscal committees, and the rules committee of each house of the Legislature. The report of such plans shall include but not be limited to, an analysis of expected fiscal savings and the extent of preservation of employment opportunities anticipated from implementation of such plans.

18038. Any employee who is being coerced, or who has been required, by the appointing power, a supervisor, or another employee, to involuntarily reduce his or her worktime contrary to the intent of this article may file a grievance with the appropriate authority pursuant to the provisions of Article 24 (commencing with Section 540) of subchapter 1 of Chapter 1 of Division 1 of Title 2 of the California Administrative Code.

18038 5 Nothing in this article shall be construed to supersede or impair any contrary provisions contained in an existing collective bargaining agreement

18039 The State Personnel Board, in cooperation with the Public Employees' Retirement System, shall prepare and submit to the Legislature, for referral to the appropriate policy and fiscal

committees of each house, a preliminary report by June 30, 1981, and a final report by June 30, 1982. Such reports shall include, but not be limited to, the following:

(a) The extent that reduced worktime programs are in use.

(b) The cost effectiveness of reduced worktime programs.

(c) The actuarial impact of reduced worktime programs.

(d) Recommendations on continuation of reduced worktime programs and suggested statutory changes.

18039.5. The Trustees of the California State University and Colleges, in cooperation with the State Personnel Board, shall be responsible for the administration of this article with respect to employees of California State University and Colleges.

18040. This article shall remain in effect only until June 30, 1982, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1982, deletes or extends such date.

SEC. 2. There is hereby appropriated to the State Personnel Board from the General Fund twenty thousand dollars ($20,000) for administrative costs necessitated by the enactment of the provisions of this bill.

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 the unemployment level in California is relatively high and in order to minimize the impact that a reduction in the number of persons employed by the state would have on the state's economy, this act must take effect immediately.

CHAPTER 939

An act to amend Section 16430 of the Government Code, relating to state government.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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 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.

(*l*) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

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 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 issued by 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) and Chapter 4.5 (commencing with Section 16600)

(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.

(*l*) Bonds, debentures, and notes issued by corporations organized and operating within the United States Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service

SEC 3. It is the intent of the Legislature, if this bill and Assembly Bill No 735 are both chaptered and become effective January 1, 1980, both bills amend Section 16430 of the Government Code, and this bill is chaptered after Assembly Bill No. 735, that the amendments to Section 16430 proposed by both bills be given effect and incorporated in Section 16430 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. 735 are both chaptered and become effective January 1, 1980, both amend Section 16430, and this bill is chaptered after Assembly Bill No 735, in which case Section 1 of this act shall not become operative

CHAPTER 940

An act to add and repeal Section 11424.5 of the Government Code, relating to administrative regulations.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 11424.5 is added to the Government Code, to read:

11424.5. (a) If a state agency, in adopting, amending, or repealing any administrative regulation, determines that the action would have a significant effect on housing costs, it shall note such fact in the notice of proposed action provided for pursuant to Section 11424 In addition, the agency officer designated in subdivision (f) of Section 11424, shall make available to the public, upon request, the agency's evaluation, if any, of the effect of the proposed regulatory action on housing costs.

(b) At the time a state agency takes regulatory action which it has determined would significantly increase housing costs, it shall consider revisions to the proposed regulatory action that would have the effect of offsetting the increase in housing costs. If no offsetting action is taken, the agency shall explain in writing the reasons for its decision.

(c) The provisions of this section shall not be construed in any manner which results in the invalidation of a regulation because of the alleged inadequacy or inaccuracy of the housing cost estimates, if there has been substantial compliance with the requirements of this chapter.

SEC. 2. It is the intent of the Legislature, if this bill and Assembly Bill 1111 are both chaptered and become effective January 1, 1980, Assembly Bill 1111 adds Section 11346.51 to the Government Code which section contains the substance of Section 11424.5 as added to the Government Code by this bill, and this bill is chaptered last, that Section 11424.5 as added to the Government Code by Section 1 of this bill shall be repealed on July 1, 1980.

CHAPTER 941

An act to add and repeal Section 2237 1 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 2237 1 is added to the Revenue and Taxation Code, to read:

2237.1. For purposes of subdivision (a) of Section 2237, the phrase "indebtedness approved by the voters prior to July 1, 1978" shall include city charter provisions which were approved by the voters prior to July 1, 1978, which require such a city to levy additional property taxes to pay obligations under the retirement system for city employees.

For purposes of this section, "obligations" shall be limited only to obligations based on that level of benefits approved by the voters prior to July 1, 1978.

SEC. 2 The provisions of this act shall apply only to a chartered city which levied an ad valorem property tax for the 1978–79 fiscal year to pay obligations under the retirement system for city employees.

SEC. 3. This act shall be operative only with regard to taxes for the 1978–79 fiscal year and the 1979–80 fiscal year.

SEC. 4 It is the intent of the Legislature that this act shall serve as a temporary means of preventing a severe fiscal hardship which would otherwise result and the Legislature does not, by enactment of this act, recognize nor interpret whether retirement system obligations are, or are not, intended to be considered "voter approved indebtedness" within the meaning of Article XIII A of the California Constitution.

SEC. 5 This act shall remain in effect only until December 31, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1980, deletes or extends such date.

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

Charter cities throughout the state are being impaired in their normal responsibilities and functions due to the impounding of city revenue funds and charter cities do not have their normal revenue funds to disburse for city obligations The intent of Article XIII A of the California Constitution is not clear and there is need to clarify those provisions as it relates to indebtedness approved by voters prior to July 1, 1978. It is therefore necessary for this act to take immediate effect

CHAPTER 942

An act to amend Sections 54220, 54221, 54222, 54223, and 54225 of the Government Code, relating to land use.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 54220 of the Government Code is amended to read

54220 The Legislature reaffirms its belief that there is an identifiable deficiency in the amount of land available for recreational and housing purposes and that surplus land, prior to disposition, should be made available for park and recreation purposes, for open-space purposes, or for low and moderate income housing purposes

SEC. 2. Section 54221 of the Government Code is amended to read

54221. (a) As used in this article, the term "local agency" means every city, whether organized under general law or by charter, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property.

(b) As used in this article, the term "surplus land" means land owned by any agency of the state, or any local agency, that is determined to be no longer necessary for such agency's use, and which is capable of park or recreation development, except property being held by the agency for the purpose of exchange

(c) As used in this article, the term "open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) As used in this article, the term "low and moderate income" means the same as provided under Section 50093 of the Health and Safety Code.

SEC. 3 Section 54222 of the Government Code is amended to read

54222. Any agency of the state and any local agency disposing of surplus land shall, prior to disposing of such property, notify in writing the following entities of their intent to dispose of the property and offer such land for park or recreational purposes or for open-space purposes to the following entities at fair market value prior to disposal·

(a) To any park or recreation department of any city within which the land may be situated.

(b) To any park or recreation department of the county within which the land is situated.

(c) To any regional park authority having jurisdiction within the area in which the land is situated.

(d) To any local agency, redevelopment agency or housing authority within which the land is situated.

(e) To the State Resources Agency or any agency which may succeed to its powers.

SEC. 4. Section 54223 of the Government Code is amended to read·

54223. The entity desiring to purchase the surplus land for park or recreation purposes, for open-space purposes or for low and moderate income housing purposes shall notify the selling agency within 60 days of its intent to purchase the land after receipt of the agency's notification of intent to sell the land. If the entity desiring to purchase the land and the selling agency are unable to arrive at a mutually satisfactory sales price for such land during the 60-day period, the land may be disposed of in the normal manner.

SEC. 5. Section 54225 of the Government Code is amended to read:

54225. Any public agency selling surplus land to an entity described in Section 54222 for park or recreation purposes, for open-space purposes or for low and moderate income housing purposes may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed of such land.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 943

An act to amend Section 11713.1 of, and to amend and renumber Section 11713.1, as added by Chapter 966 of the Statutes of 1978, and Sections 11713.2, and 11713.3 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 11713.1 of the Vehicle Code, as added by Chapter 996 of the Statutes of 1973, is amended and renumbered to read·

11713.2. It shall be unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor

branch licensed under this code to coerce or attempt to coerce any dealer in this state:

(a) To order or accept delivery of any motor vehicle, part or accessory thereof, appliance, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the dealer.

(b) To order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of such motor vehicles as publicly advertised by the manufacturer or distributor.

(c) To order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(d) To participate in an advertising campaign or contest, any promotional campaign, promotional materials, training materials, showroom or other display decorations or materials at the expense of the dealer.

(e) To enter into any agreement with the manufacturer, manufacturer branch, distributor, or distributor branch, or to do any other act prejudicial to the dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and manufacturer, manufacturer branch, distributor, or distributor branch. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of such franchise or contractual agreement shall not constitute a violation of this article.

SEC. 2 Section 11713.1 of the Vehicle Code, as amended by Chapter 278 of the Statutes of 1979, 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 sale, 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, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation charge. The dealer documentary preparation charge shall not exceed twenty dollars ($20).

(c) To exclude from the newspaper display 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, finance charges, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any dealer documentary preparation

charge.

For purposes of this subdivision, a newspaper display advertisement is any advertisement in a newspaper which is two or more newspaper columns in width or one newspaper column in width and more than seven inches in length.

(d) To represent the dealer documentary preparation charge as a governmental fee.

(e) To fail 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, mobilehome escrow fees, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, and any 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. Section 11713.2 of the Vehicle Code is amended and renumbered to read:

11713.3. It shall be unlawful and a violation of this code for any manufacturer, manufacturer branch, distributor, or distributor branch licensed under this code:

(a) To refuse or fail to deliver in reasonable quantities and within a reasonable time after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle or parts or accessories to new vehicles as are covered by such franchise, if such vehicle, parts or accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if such failure is caused by acts or causes beyond the control of the manufacturer, manufacturer branch, distributor, or distributor branch.

(b) To prevent or require or attempt to prevent or require, by contract or otherwise any change in the capital structure of a dealership or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times meets any reasonable capital standards agreed to by the dealer and the manufacturer or distributor, and also provided that no change in capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

(c) To prevent or require, or attempt to prevent or require, a dealer to change the executive management of a dealership, other than the principal dealership operator or operators if the franchise was granted the dealer in reliance upon the personal qualifications of such person or persons.

(d) To prevent or require, or attempt to prevent or require, by contract or otherwise, any dealer, or any officer, partner, or

stockholder of any dealership, the sale or transfer of any part of the interest of any of them to any other person or persons. No dealer, officer, partner, or stockholder shall, however, have the right to sell, transfer, or assign the franchise, or any right thereunder, without the consent of the manufacturer or distributor except that such consent shall not be unreasonably withheld.

(e) To prevent, or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall be no transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld.

(f) To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and such other person, other than for compensation for services rendered, unless such benefit is promptly accounted for, and transmitted to, the dealer

(g) To require a dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this article or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the board, if such referral would be binding on the dealer. This subdivision shall not, however, prohibit arbitration before an independent arbitrator.

(h) To increase prices of motor vehicles which the dealer had ordered for private retail consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each such order. In the event of manufacturer price reductions, the amount of any such reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease Price changes caused by either (1) the addition to a motor vehicle of required or optional equipment pursuant to state or federal law, or (2) revaluation of the United States dollar in the case of foreign-make vehicles, shall not be subject to the provisions of this subdivision

(i) To fail to pay to a dealer, within a reasonable time following receipt of a valid claim by a dealer thereof, any payment agreed to be made by the manufacturer or distributor to the dealer by reason of the fact that a new vehicle of a prior year model is in such dealer's inventory at the time of introduction of new model vehicles A manufacturer or distributor shall not authorize or enable any new model or series passenger vehicle or station wagon to be delivered by dealers at retail more than 30 days prior to the eligibility date of

such model change allowance payment for prior year model vehicles.

(j) To deny the widow or heirs designated by a deceased owner of a dealership, the opportunity to participate in the ownership of such dealership or successor dealership under a valid franchise for a reasonable time after the death of such owner.

(k) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line-make to be sold to the state or any political subdivision thereof without making the same offer to all other dealers in the same line-make within the relevant market area.

(*l*) To modify, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of Article 4 (commencing with Section 3060) of Chapter 6 of Division 2.

(m) To employ a person as a representative who has not been licensed pursuant to Article 3 (commencing with Section 11900) of Chapter 4 of Division 5.

(n) To deny any dealer the right of free association with any other dealer for any lawful purpose

(o) To compete with a dealer in the same line-make operating under an agreement or franchise from a manufacturer or distributor in the relevant market area. A manufacturer or distributor shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions. A distributor shall not be deemed to be competing when a wholly owned subsidiary corporation of such distributor sells motor vehicles at retail, if, for at least three years prior to January 1, 1973, such subsidiary corporation has been a wholly owned subsidiary of such distributor and engaged in the sale of vehicles at retail.

(p) To unfairly discriminate among its franchisees with respect to warranty reimbursement or authority granted its franchisees to make warranty adjustments with retail customers

(q) To sell vehicles to persons not licensed under this chapter for resale

SEC. 4 Section 11713.3 of the Vehicle Code is amended and renumbered to read·

11713 4 If a purchaser of a vehicle pays to the dealer an amount for the licensing or transfer of title of the vehicle, which amount is in excess of the actual fees due for such licensing or transfer, or which amount is in excess of the amount which has been paid, prior to the sale, by the dealer to the state in order to avoid penalties that would have accrued because of late payment of such fees, the dealer shall return such excess amount to the purchaser, whether or not such purchaser requests the return of the excess amount

CHAPTER 944

An act to amend Sections 136, 137, 220, 264, 286, 288, 288a, 290, 653f, 1048, 1170.1, 1192.5, and 1203.06 of, to add Sections 667.6, 1203.065, 2691, 12022.3, and 12022.8 to, and to repeal Section 264.2 of, the Penal Code, and to amend Section 707 of, and to add Section 1732 to, the Welfare and Institutions Code, relating to crimes.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 136 of the Penal Code is amended to read

136. (a) Every person who willfully and unlawfully prevents or dissuades any person who is or may become a witness, from attending upon any trial, proceeding, or inquiry, authorized by law, is guilty of a misdemeanor.

(b) Every person who willfully and unlawfully prevents or dissuades by means of force or threats of unlawful injury to person or damage to the property of another, any person who is or may become a witness, from attending upon any trial, proceeding, or inquiry, authorized by law, is punishable by imprisonment in the state prison for two, three, or four years.

(c) At the arraignment, on a showing of cause to believe this section may be violated, the court, on motion of a party, shall admonish the person who there is cause to believe may violate this section and shall announce the penalties and other provisions of this section

SEC 2 Section 137 of the Penal Code is amended to read:

137. (a) Every person who gives or offers, or promises to give, to any witness, or person about to be called as a witness, any bribe, upon any understanding or agreement that the testimony of such witness shall be thereby influenced is guilty of a felony.

(b) Every person who attempts by force or threat of force or by the use of fraud to induce any person to give false testimony or withhold true testimony is guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years.

As used in this subdivision, "threat of force" means a credible threat of unlawful injury to any person or damage to the property of another which is communicated to a person for the purpose of inducing him to give false testimony or withhold true testimony

(c) Every person who knowingly induces another person to give false testimony or withhold true testimony not privileged by law is guilty of a misdemeanor

(d) At the arraignment, on a showing of cause to believe this section may be violated, the court, on motion of a party, shall admonish the person who there is cause to believe may violate this section and shall announce the penalties and other provisions of this

section.

SEC. 3. Section 220 of the Penal Code is amended to read:

220. Every person who assaults another with intent to commit mayhem, rape, sodomy, oral copulation, or any violation of Section 264.1, 288 or 289 is punishable by imprisonment in the state prison for two, four, or six years.

SEC. 4. Section 264 of the Penal Code is amended to read·

264 Except as provided in Section 264.1, 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 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. 5. Section 264.2 of the Penal Code is repealed.

SEC 6. 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) Except as provided in Section 288, 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) Except as provided in Section 288, 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. 6.5. Section 288 of the Penal Code is amended to read:

288. (a) 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.

(b) Any person who commits an act described in subdivision (a) by use of force, violence, duress, menace, or threat of great bodily harm, and against the will of the victim shall be guilty of a felony and shall be imprisoned in the state prison for a term of three, five or seven years.

SEC. 7. 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) Except as provided in Section 288, 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) Except as provided in Section 288, 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. 8. Section 290 of the Penal Code is amended to read

290. (a) Any person who, since the first day of July, 1944, has been or is hereafter convicted in the State of California of the offense

of assault with intent to commit rape, the infamous crime against nature, or sodomy under Section 220, or of any offense defined in Section 266, 267, 268, 285, 286, 288, 288a, 289, subdivision 1 of Section 647a, subdivision 2 or 3 of Section 261, subdivision (a) or (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since such date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since such date or at any time hereafter is discharged or paroled from a penal institution where he was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since such date or at any time hereafter is determined to be a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since such date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area

(b) Any person who, after the first day of August, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he was committed as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to such discharge, parole, or release, be informed of his duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his discharge, parole, or release and shall report such address to the Department of Justice The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send two or, if the conviction which makes the person subject to this section is a felony conviction, shall, not later than 45 days prior to the scheduled release of such person, send four copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release, and, if the conviction which makes the person

subject to this section is a felony conviction, one copy to the prosecuting agency which prosecuted the person and one copy to the court where he was prosecuted. All such forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within such times as to be received by the local law enforcement agency, prosecuting agency and court 30 days prior to the discharge, parole or release of the person.

(c) Any person who after the first day of August, 1950, is convicted in the State of California of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to such release or discharge, be informed of his duty to register under this section by the court in which he has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him. The court shall obtain the address where the person expects to reside upon his release or discharge and shall report within three days such address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

(d) Such registration shall consist of (a) a statement in writing signed by such person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of such person. Within three days thereafter the registering law enforcement agency shall forward such statement, fingerprints and photograph to the Department of Justice

(e) If any person required to register hereunder changes his residence address he shall inform, in writing within 10 days, the law enforcement agency with whom he last registered of his new address. The law enforcement agency shall, within three days after receipt of such information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(f) Any person required to register under the provisions of this section who shall violate any of the provisions thereof is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation or sodomy, or of any violation of Section 286, 288, 288a, 289 or subdivision 2 or 3 of Section 261, and who is required to register under the provisions of this section who shall willfully violate any of the provisions thereof is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in the county jail and of completing probation of at least

one year.

(g) Whenever any person is released on parole or probation and is required to register under the provisions of this section but fails to do so within the time prescribed, the Community Release Board, the Youth Authority, or the court, as the case may be, shall order the parole or probation of such person revoked.

(h) The statements, photographs and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(i) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he is confined on any assignment within a city or county including fire fighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where such assignment shall occur shall be notified within a reasonable time prior to such removal from the institution This provision shall not apply to any person temporarily released under guard from the institution where he is confined.

(j) As used in this section "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which upon the effective date of the amendment of this section enacted at the 1975–76 Regular Session of the Legislature is, or which prior to such date has been, contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC 9. 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, 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) Every person who solicits another to commit rape by force or violence, sodomy by force or violence, oral copulation by force or violence, or any violation of Section 264.1, 288 or 289, is punishable by imprisonment in a state prison for two, three or four years

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

and corroborating circumstances

SEC. 10. Section 667 6 is added to the Penal Code, to read:

667.6 (a) Any person who is found guilty of violating subdivision (2) or (3) of Section 261, Section 264 1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace or threat of great bodily harm who has been convicted previously of any such offense shall receive a five-year enhancement for each such prior conviction provided that no enhancement shall be imposed under this subdivision for any conviction occurring prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Any person convicted of an offense specified in subdivision (a) who has served two or more prior prison terms as defined in Section 667 5 for any offense specified in subdivision (a), shall receive a 10-year enhancement for each such prior term provided that no additional enhancement shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction

(c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace or threat of great bodily harm whether or not the crimes were committed during a single transaction If such term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of imprisonment, and shall commence from the time such person would otherwise have been released from imprisonment Such term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to such term shall not be merged therein but shall commence at the time such person would otherwise have been released from prison

(d) A full, separate, and consecutive term shall be served for each violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace or threat of great bodily harm if such crimes involve separate victims or involve the same victim on separate occasions

Such term shall be served consecutively to any other term of imprisonment, and shall commence from the time such person would otherwise have been released from imprisonment. Such term shall not be included in any determination pursuant to Section 1170 1 Any other term imposed subsequent to such term shall not be merged therein but shall commence at the time such person would otherwise have been released from prison

SEC. 11. Section 1048 of the Penal Code is amended to read.

1048. The issues on the calendar must be disposed of in the following order, unless for good cause the court shall direct an action to be tried out of its order:

1 Prosecutions for felony, when the defendant is in custody.

2 Prosecutions for misdemeanor, when the defendant is in custody.

3 Prosecutions for felony, when the defendant is on bail.

4. Prosecutions for misdemeanor, when the defendant is on bail

However, all criminal actions wherein a minor is detained as a material witness, or wherein the minor is the victim of the alleged offense, or wherein any person is a victim of an alleged violation of Section 261, 264 1, 286, 288, 288a or 289, committed by the use of force, violence, or the threat thereof, shall be given precedence over all other criminal actions in the order of trial. In such actions continuations shall be granted by the court only after a hearing and determination of the necessity thereof, and in any event, the trial shall be commenced within thirty days after arraignment, unless for good cause the court shall direct the action to be continued, after a hearing and determination of the necessity of such continuance, and states the findings for such good cause on the record.

Nothing in this section shall be deemed to provide a statutory right to a trial within 30 days.

SEC. 12. Section 1170.1 of the Penal Code is amended to read:

1170 1 (a) Except as provided in subdivision (b) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all such convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667 5 or 667.6 The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to Section 12022, 12022.3, 12022.5, 12022.6, 12022 7 or 12022 8. The subordinate term for each consecutive offense shall consist of one-third of the middle term of imprisonment prescribed for each other felony conviction for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements when the consecutive offense is not listed in subdivision (c) of Section 667.5, but shall include one-third of any enhancement imposed pursuant to Section 12022, 12022.5 or 12022.7 when the consecutive offense is listed in subdivision (c) of Section 667 5 In no case shall the total of subordinate terms for consecutive offenses not listed in subdivision (c) of Section 667 5 exceed five years

(b) In the case of any person convicted of one or more felonies committed while such person is confined in a state prison, or is subject to reimprisonment for escape from such custody and the law

either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all such convictions which such person is required to serve consecutively shall commence from the time such person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. The provisions of this subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(c) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional terms provided in Sections 667.5, 12022, 12022.5, 12022.6, and 12022.7, unless the additional punishment therefore is stricken pursuant to subdivision (g) The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of such additional term, the court shall apply the sentencing rules of the Judicial Council.

(d) When two or more enhancements under Sections 12022, 12022 5, and 12022 7 may be imposed for any single offense, only the greatest enhancement shall apply; however, in cases of robbery, rape or burglary, or attempted robbery, rape or burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022 or 12022.5 and (2) an enhancement for great bodily injury as provided in Section 12022.7.

(e) The enhancements provided in Sections 667.5, 667.6, 12022, 12022.3, 12022.5, 12022.6, 12022.7, and 12022.8 shall be pleaded and proven as provided by law.

(f) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless the defendant stands convicted of a felony described in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (b) of this section, or an enhancement is imposed pursuant to Section 12022, 12022.5, 12022.6 or 12022.7.

(g) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in Sections 667.5, 12022, 12022.5, 12022.6, and 12022.7 if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment

(h) For any violation of subdivision (2) or (3) of Section 261, Section 264 1, subdivision (b) of Section 288, Section 289, or sodomy or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other

section of law. Each of such enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 13. Section 1192.5 of the Penal Code is amended to read:

1192.5 Upon a plea of guilty or nolo contendere to an accusatory pleading charging a felony, other than a violation of subdivision (2) or (3) of Section 261, Section 264.1, Section 286 by force, violence, duress, menace or threat of great bodily harm, subdivision (b) of Section 288, Section 288a by force, violence, duress, menace or threat of great bodily harm, or Section 289, the plea may specify the punishment to the same extent as it may be specified by the jury on a plea of not guilty or fixed by the court on a plea of guilty, nolo contendere, or not guilty, and may specify the exercise by the court thereafter of other powers legally available to it.

Where such plea is accepted by the prosecuting attorney in open court and is approved by the court, the defendant, except as otherwise provided in this section, cannot be sentenced on such plea to a punishment more severe than that specified in the plea and the court may not proceed as to such plea other than as specified in the plea

If the court approves of the plea, it shall inform the defendant prior to the making of the plea that (1) its approval is not binding, (2) it may, at the time set for the hearing on the application for probation or pronouncement of judgment, withdraw its approval in the light of further consideration of the matter, and (3) in such case, the defendant shall be permitted to withdraw his plea if he desires to do so. The court shall also cause an inquiry to be made of the defendant to satisfy itself that the plea is freely and voluntarily made, and that there is a factual basis for such plea.

If such plea is not accepted by the prosecuting attorney and approved by the court, the plea shall be deemed withdrawn and the defendant may then enter such plea or pleas as would otherwise have been available.

If such plea is withdrawn or deemed withdrawn, it may not be received in evidence in any criminal, civil, or special action or proceeding of any nature, including proceedings before agencies, commissions, boards, and tribunals

SEC. 14 Section 1203.06 of the Penal Code is amended to read:

1203.06 Notwithstanding the provisions of Section 1203:

(a) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons

(1) Any person who personally used a firearm during the commission or attempted commission of any of the following crimes:

(i) Murder

(ii) Assault with intent to commit murder, in violation of Section 217

(iii) Robbery, in violation of Section 211

(iv) Kidnapping, in violation of Section 207.

(v) Kidnapping for ransom, extortion, or robbery, in violation of Section 209.

(vi) Burglary of the first degree, as defined in Section 460.

(vii) Except as provided in Section 1203.065, rape by force or violence, in violation of subdivision (2) of Section 261.

(viii) Except as provided in Section 1203.065, rape by threat of great and immediate bodily harm, in violation of subdivision (3) of Section 261

(ix) Assault with intent to commit rape, the infamous crime against nature, or robbery, in violation of Section 220

(x) Escape, in violation of Section 4530 or 4532

(2) Any person previously convicted of a felony specified in subparagraphs (i) through (x) of paragraph (1), who is convicted of a subsequent felony and who was personally armed with a firearm at any time during its commission or attempted commission or was unlawfully armed with a firearm at the time of his arrest for the subsequent felony.

(b) (1) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code

(3) As used in subdivision (a) "used a firearm" means to display a firearm in a menacing manner, to intentionally fire it, or to intentionally strike or hit a human being with it.

(4) As used in subdivision (a) "armed with a firearm" means to knowingly carry a firearm as a means of offense or defense.

SEC 15 Section 1203.065 is added to the Penal Code, to read·

1203 065 (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person convicted of violating subdivision (2) or (3) of Section 261, or Section 264 1, subdivision (b) of Section 288, or 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace or threat of great bodily harm.

(b) 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 person convicted of a violation of Section 220 for assault with intent to commit rape, sodomy, oral copulation or any violation of Section 264 1, subdivision (b) of Section 288, or Section 289

When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition

(c) This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC. 16 Section 2691 is added to the Penal Code, to read

2691. No person imprisoned for a felony listed in Section 667.6 shall be removed or released under Section 2690 from the detention institution where he is confined for the purpose of attending college classes in any city or county nor shall such person be placed in a community correctional center pursuant to Chapter 9.5 (commencing with Section 6250) of Title 7 of Part 3 of the Penal Code. No person under the jurisdiction of the adult court and confined under the jurisdiction of the Department of the Youth Authority for conviction of a felony listed in Section 667.6 shall be removed or released from the place of confinement for attendance at any educational institution in any city or county.

SEC. 17 Section 12022.3 is added to the Penal Code, to read:

12022.3 For each violation of Section 261, 264.1, 286, 288, 288a or 289, and in addition to the sentence provided, any person shall receive an enhancement (a) of three years if such person uses a firearm or any other deadly weapon in the commission of such violation or (b) of two years if such person is armed with a firearm or any other deadly weapon.

SEC. 18 Section 12022.8 is added to the Penal Code, to read:

12022.8. Any person who inflicts great bodily injury, as defined in Section 12022.7, on any victim in a violation of subdivision (2) or (3) of Section 261, Section 264 1, subdivision (b) of Section 288, Section 289, or sodomy or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 288a shall receive a five-year enhancement for each such violation in addition to the sentence provided for the felony conviction

SEC. 19. Section 707 of the Welfare and Institutions Code is amended to read:

707 (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for unfitness Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria·

(1) The degree of criminal sophistication exhibited by the minor

(2) Whether the minor can be rehabilitated prior to the

expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at such hearing.

(b) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he was 16 years of age or older, of one of the following offenses:

(1) Murder;

(2) Arson of an inhabited building;

(3) Robbery while armed with a dangerous or deadly weapon;

(4) Rape with force or violence or threat of great bodily harm;

(5) Sodomy by force, violence, duress, menace or threat of great bodily harm;

(6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code;

(7) Oral copulation by force, violence, duress, menace or threat of great bodily harm;

(8) Any offense specified in Section 289 of the Penal Code;

(9) Kidnapping for ransom;

(10) Kidnapping for purpose of robbery;

(11) Kidnapping with bodily harm;

(12) Assault with intent to murder or attempted murder;

(13) Assault with a firearm or destructive device;

(14) Assault by any means of force likely to produce great bodily injury;

(15) Discharge of a firearm into an inhabited or occupied building;

(16) Any offense described in Section 1203.09 of the Penal Code, upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the juvenile court shall find that the minor is not a fit and proper subject to be dealt with under the juvenile court law unless it concludes that the minor would be amenable to the care, treatment and training program available through the facilities of the juvenile court based upon an evaluation of the following criteria:

(i) The degree of criminal sophistication exhibited by the minor, and

(ii) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction, and

(iii) The minor's previous delinquent history, and

(iv) Success of previous attempts by the juvenile court to rehabilitate the minor, and

(v) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and reasons therefor shall be recited in the order. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at such hearing.

SEC. 20. Section 1732 is added to the Welfare and Institutions Code, to read:

1732. No person convicted of violating subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of sodomy or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 288a of the Penal Code committed when such person was 18 years of age who has previously been convicted of any such felony shall be committed to the Youth Authority. This section does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

SEC. 21. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 945

An act to amend Section 798.56 of, and to add Section 798.10 to, the Civil Code, relating to landlord and tenant.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 798.10 is added to the Civil Code, to read:

798.10. "Change of use" means a use of the park for a purpose other than the rental, or the holding out for rent, of two or more mobilehome sites to accommodate mobilehomes used for human habitation. A change of use may affect an entire park or any portion thereof. "Change of use" includes, but is not limited to, a change of the park or any portion thereof to a condominium, stock cooperative, planned unit development, or any form of ownership wherein spaces within the park are to be sold.

SEC. 2. Section 798.56 of the Civil Code 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, or any portion thereof, provided:

(1) The management gives the tenants at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) The management gives the tenants 12 months' or more written notice of the proposed change after the management has made initial application to the local governmental board, commission, or body requesting a change of use. Provided, however, that no tenant shall be required to vacate until all required permits for a change of use have been obtained. After all required permits have been obtained and the 12-month or more period specified in the notice has elapsed, the notice specified in Section 798.55 may be given

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur The management in the notice shall disclose and describe in detail the nature of the

change of use.

(3) The management gives each proposed tenant written notice thereof prior to the inception of his tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) 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.

(5) A notice of a proposed change of use given prior to January 1, 1980, which conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall only apply to notices given on or after January 1, 1980

SEC. 3. Section 798.56 of the Civil Code 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; provided, that the tenant shall be given a three-day written notice to pay the amount due or to vacate the tenancy. The three-day written notice shall be given to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure. Such notice may be given at the same time as the 60 days' notice required for termination of the tenancy. Payment by the tenant prior to the expiration of the three-day notice period shall cure a default under this subdivision with respect to such payment The tenant shall remain liable for all payments due up until the time the tenancy is vacated

(e) Condemnation of the park

(f) Change of use of the park, or any portion thereof, provided:

(1) The management gives the tenants at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park

(2) The management gives the tenants 12 months' or more written notice of the proposed change after the management has

made initial application to the local governmental board, commission, or body requesting a change of use. Provided, however, that no tenant shall be required to vacate until all required permits for a change of use have been obtained. After all required permits have been obtained and the 12-month or more period specified in the notice has elapsed, the notice specified in Section 798.55 may be given.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed tenant written notice thereof prior to the inception of his tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) 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.

(5) A notice of a proposed change of use given prior to January 1, 1980, which conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall only apply to notices given on or after January 1, 1980.

SEC. 4. It is the intent of the Legislature, if this bill and Assembly Bill 1744 are both chaptered and become effective January 1, 1980, both bills amend Section 798.56 of the Civil Code, and this bill is chaptered after Assembly Bill 1744, that the amendments to Section 798.56 proposed by both bills be given effect and incorporated in Section 798.56 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 1744 are both chaptered and become effective January 1, 1980, both amend Section 798.56, and this bill is chaptered after Assembly Bill 1744, in which case Section 2 of this act shall not become operative.

CHAPTER 946

An act to amend Section 33422.2 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 33422.2 of the Health and Safety Code is amended to read:

33422.2. (a) To the greatest extent feasible, opportunities for training and employment arising from any contract for work to be performed in connection with any redevelopment project shall be given to the lower-income residents of the project area.

(b) An agency with a resident population of less than 1,000 persons in its territorial jurisdiction, and with a secured assessed valuation of not more than thirty million dollars ($30,000,000) as shown on the 1978–79 assessment roll, may, by contract, obligate lessees and purchasers of real property acquired in a redevelopment project and owners of property improved as part of a redevelopment project to give preference to training and employment, in businesses to be conducted on the property, to residents of the project area upon such terms and conditions as may be mutually agreed upon. In the event that there is an agreement between the employer and a labor organization which restricts the employer's ability to employ project area residents, then such labor organization shall give preference as to entry into the particular labor organization, and with respect to employment in a business on the property, to residents of the project area otherwise qualified.

CHAPTER 947

An act to add Sections 65863.5 and 66412.2 to the Government Code, to amend Section 39601 of the Health and Safety Code, to amend Sections 21000 and 21001 of the Public Resources Code, to amend Sections 13142 and 13241 of, and to add Section 1259 to, the Water Code, relating to housing.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1 Section 65863.5 is added to the Government Code, to read:

65863.5. In carrying out the provisions of this chapter, each county and city shall consider the effect of ordinances adopted pursuant to this chapter on the housing needs of the region in which the local jurisdiction is situated and balance these needs against the public service needs of its residents and available fiscal and environmental resources. Any ordinance adopted pursuant to this chapter which, by its terms, limits the number of housing units which may be constructed on an annual basis shall contain findings as to the public health, safety, and welfare of the city or county to be promoted by the adoption of the ordinance which justify reducing the housing opportunities of the region.

SEC. 2. Section 66412.2 is added to the Government Code, to read:

66412 2 In carrying out the provisions of this division, each local agency shall consider the effect of ordinances and actions adopted pursuant to this division on the housing needs of the region in which the local jurisdiction is situated and balance these needs against the public service needs of its residents and available fiscal and environmental resources.

SEC. 3. Section 39601 of the Health and Safety Code is amended to read·

39601. (a) The state board shall adopt standards, rules, and regulations in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, necessary for the proper execution of the powers and duties granted to, and imposed upon, the state board by this division and by any other provision of law.

(b) The state board, by rules and regulations, may revise the definitions of terms set forth in Chapter 2 (commencing with Section 39010) of Part 1 in order to conform such definitions to federal laws and rules and regulations.

(c) The standards, rules, and regulations adopted pursuant to this section shall, to the extent consistent with the responsibilities imposed under this division, be consistent with the state goal of providing a decent home and suitable living environment for every Californian

SEC. 4. Section 21000 of the Public Resources Code is amended to read·

21000 The Legislature finds and declares as follows.

(a) The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.

(b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

(c) There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state, including their enjoyment of the natural resources of the state.

(d) The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.

(e) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.

(f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution

(g) It is the intent of the Legislature that all agencies of the state

government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian

SEC. 5 Section 21001 of the Public Resources Code is amended to read·

21001. The Legislature further finds and declares that it is the policy of the state to:

(a) Develop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.

(b) Take all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise.

(c) Prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self-prepetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history.

(d) Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment for every Californian, shall be the guiding criterion in public decisions

(e) Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations.

(f) Require governmental agencies at all levels to develop standards and procedures necessary to protect environmental quality.

(g) Require governmental agencies at all levels to consider qualitative factors as well as economic and technical factors and long-term benefits and costs, in addition to short-term benefits and costs and to consider alternatives to proposed actions affecting the environment

SEC 6. Section 1259 is added to the Water Code, to read:

1259. In acting upon applications to appropriate water, the board shall consider the state goal of providing a decent home and suitable living environment for every Californian.

SEC 7 Section 13142 of the Water Code is amended to read:

13142 State policy for water quality control shall consist of all or any of the following.

(a) Water quality principles and guidelines for long-range resource planning, including ground water and surface water management programs and control and use of reclaimed water.

(b) Water quality objectives at key locations for planning and operation of water resource development projects and for water quality control activities

(c) Other principles and guidelines deemed essential by the state board for water quality control.

The principles, guidelines, and objectives shall be consistent with the state goal of providing a decent home and suitable living environment for every Californian.

SEC. 8. Section 13241 of the Water Code is amended to read:

13241. Each regional board shall establish such water quality objectives in water quality control plans as in its judgment will ensure the reasonable protection of beneficial uses and the prevention of nuisance; however, it is recognized that it may be possible for the quality of water to be changed to some degree without unreasonably affecting beneficial uses. Factors to be considered by a regional board in establishing water quality objectives shall include, but not necessarily be limited to, all of the following:

(a) Past, present, and probable future beneficial uses of water.

(b) Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto.

(c) Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area.

(d) Economic considerations.

(e) The need for developing housing within the region.

SEC. 9. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 948

An act to amend Sections 1141 11 and 1282.2 of the Code of Civil Procedure, relating to arbitration, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 1141.11 of the Code of Civil Procedure, as amended by Chapter 46 of the Statutes of 1979, is amended to read:

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 or 1161 of this code.

(d) The provisions of this chapter shall not apply to those actions filed in a superior or municipal court which has been selected pursuant to Section 1823 1 and is participating in a pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5; provided, however, that any superior or municipal court may provide by local rule that the provisions of this chapter shall apply to actions pending on or filed after July 1, 1979. Any action filed in such court after the conclusion of the pilot project shall be subject to the provisions of this chapter.

SEC 2. Section 1282.2 of the Code of Civil Procedure is amended to read:

1282.2 Unless the arbitration agreement otherwise provides, or unless the parties to the arbitration otherwise provide by an agreement which is not contrary to the arbitration agreement as made or as modified by all the parties thereto·

(a) (1) The neutral abritrator shall appoint a time and place for the hearing and cause notice thereof to be served personally or by registered or certified mail on the parties to the arbitration and on the other arbitrators not less than seven days before the hearing Appearance at the hearing waives the right to notice.

(2) Excepting matters arising out of collective-bargaining agreements, those described in Section 1283.05, actions involving personal injury or death, or as provided in the parties' agreement to arbitrate, in the event the aggregate amount in controversy exceeds fifty thousand dollars ($50,000) and the arbitrator is informed thereof by any party in writing by personal service, registered or certified mail, prior to designating a time and place of hearing pursuant to paragraph (1), the neutral arbitrator by the means prescribed in

paragraph (1) shall appoint a time and place for hearing not less than 60 days before the hearing, and the following provisions shall apply:

(A) Either party shall within 15 days of receipt of the notice of hearing have the right to demand in writing, served personally or by registered or certified mail, that the other party provide a list of witnesses it intends to call designating which witnesses will be called as expert witnesses and a list of documents it intends to introduce at the hearing provided that the demanding party provides such lists at the time of its demand A copy of such demand and the demanding party's lists shall be served on the arbitrator

(B) Such lists shall be served personally or by registered or certified mail on the requesting party 15 days thereafter. Copies thereof shall be served on the arbitrator.

(C) Listed documents shall be made available for inspection and copying at reasonable times prior to the hearing.

(D) Time limits provided herein may be waived by mutual agreement of the parties if approved by the arbitrator.

(E) The failure to list a witness or a document shall not bar the testimony of an unlisted witness or the introduction of an undesignated document at the hearing, provided that good cause for omission from the requirements of subparagraph (A) is shown, as determined by the arbitrator

(F) The authority of the arbitrator to administer and enforce this paragraph shall be as provided in subdivisions (b) to (e), inclusive, of Section 1283.05

(b) The neutral arbitrator may adjourn the hearing from time to time as necessary. On request of a party to the arbitration for good cause, or upon his own determination, the neutral arbitrator may postpone the hearing to a time not later than the date fixed by the agreement for making the award, or to a later date if the parties to the arbitration consent thereto.

(c) The neutral arbitrator shall preside at the hearing, shall rule on the admission and exclusion of evidence and on questions of hearing procedure and shall exercise all powers relating to the conduct of the hearing.

(d) The parties to the arbitration are entitled to be heard, to present evidence and to cross-examine witnesses appearing at the hearing, but rules of evidence and rules of judicial procedure need not be observed. On request of any party to the arbitration, the testimony of witnesses shall be given under oath.

(e) If a court has ordered a person to arbitrate a controversy, the arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party ordered to arbitrate, who has been duly notified, to appear.

(f) If an arbitrator, who has been duly notified, for any reason fails to participate in the arbitration, the arbitration shall continue but only the remaining neutral arbitrator or neutral arbitrators may make the award.

(g) If a neutral arbitrator intends to base an award upon

information not obtained at the hearing, he shall disclose such information to all parties to the arbitration and give the parties an opportunity to meet it.

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

The authority for rules for arbitration or cause submitted to arbitration prior to July 1, 1979, and pending on such date and for payment of compensation for arbitration of such cause was repealed on July 1, 1979, to coincide with the operative date of the new mandatory judicial arbitration system. Further, courts selected to participate in the pilot project pursuant to Title 1 (commencing with Section 1823) of Part 3.5 of the Code of Civil Procedure are excluded from the mandatory uniform system of judicial arbitration. In order to allow these courts to use judicial arbitration when it is determined to be in the best interest of justice it is necessary that this act shall go into immediate effect.

CHAPTER 949

An act relating to the Chaffey Community College District and the Riverside Community College District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Under prior agreements, students within the Corona-Norco Unified School District were permitted to attend community colleges in the Riverside Community College District. This agreement has been terminated. The nearest available college is Chaffey Community College. However, attendance at Chaffey Community College requires the students to travel long distances and disrupts the cohesiveness of the community around Corona-Norco Unified School District.

SEC 2 Notwithstanding any other provision of law to the contrary, the residents who live in the Corona-Norco Unified School District, located in the Chaffey Community College District, shall have the right to attend classes either at Chaffey Community College or at community colleges within the Riverside Community College District

SEC 3 The Riverside Community College District shall be authorized to offer classes within the Corona-Norco Unified School District which are not duplicative of current or future class offerings by any other community college district located within the

Corona-Norco Unified School District. However, duplicative classes which are currently offered or will be offered in the future within the Corona-Norco Unified School District by any community college district may be offered by the Riverside Community College District upon the request of the community college district conducting the classes.

SEC. 4. Any economic impact created within the Corona-Norco Unified School District pursuant to the imposition of ad valorem taxes which affect either the Chaffey Community College District or Riverside Community College District, shall be resolved by the two districts working in concert.

SEC. 5. Due to the unique circumstances concerning the Corona-Norco Unified 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 California Constitution.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

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 continue to provide students of the Corona-Norco Unified School District a proper educational opportunity to attend classes at either Chaffey Community College or at community colleges within the Riverside Community College District as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 950

An act to add Section 54953.1 to the Government Code, and to amend Section 905.5 of, to amend, repeal and add Section 901 of, and to add and repeal Section 908.2 to, the Penal Code, relating to grand juries.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 54953.1 is added to the Government Code, to read:

54953.1. The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

SEC. 2. Section 901 of the Penal Code is amended to read:

901. (a) The persons whose names are so returned shall be known as regular jurors, and shall serve for one year and until other persons are selected and returned.

(b) If the superior court so decides, the presiding judge may name four regular jurors not previously so named, who served on the previous grand jury and who so consent, to serve for a second year.

(c) The court may also decide to select grand jurors pursuant to Section 908.2.

(d) This section 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 July 1, 1984, deletes or extends such date.

SEC. 3. Section 901 is added to the Penal Code, to read:

901. The persons whose names are so returned shall be known as regular jurors, and shall serve for one year and until other persons are selected and returned.

SEC. 4. Section 905.5 of the Penal Code is amended to read:

905.5. The grand jury shall be impaneled and serve during the fiscal year of the county in the manner provided in this chapter.

SEC. 5. Section 908.2 is added to the Penal Code, to read:

908.2. (a) Upon the decision of the superior court pursuant to Section 901 to adopt this method of selecting grand jurors, when the required number of persons have been impaneled as the grand jury pursuant to law, the clerk shall write the names of each such person on separate ballots. The clerk shall fold the ballots so that the names cannot be seen, place them in a box, and draw out half of such ballots, or in a county where the number of grand jurors is uneven, one more than half. The persons whose names are on the ballots so drawn shall serve for 12 months until July 1 of the following year. The persons whose names are not on the ballots so drawn shall serve for six months until January 1 of the following year.

(b) Each subsequent year, on January 2 and July 2, a sufficient number of grand jurors shall be impaneled to replace those whose service concluded the previous day. Those persons impaneled on January 2, shall serve until January 1 of the following year. Those persons impaneled on July 2, shall serve until July 1 of the following year. No person shall serve on the grand jury for more than one year.

(c) The provisions of subdivisions (a) and (b) shall not be applicable to the selection of grand jurors for an additional grand jury authorized pursuant to Sections 904.5, 904.6, 904.7, 904.8, and 904.9.

(d) This section 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 July 1, 1984, deletes or extends such date.

SEC. 6. Section 3 of this act shall become operative July 1, 1984.

CHAPTER 951

An act to amend Section 40510 of the Vehicle Code, relating to vehicles

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 40510 of the Vehicle Code is amended to read:

40510 (a) Prior to the date upon which he promised to appear or prior to the expiration of any lawful continuance of such date or upon receipt of information that an action has been filed, and prior to the scheduled court date, the defendant may deposit bail with the magistrate or the person authorized to receive a deposit of bail.

(b) For any offense which is not declared to be a felony, such deposit of bail may be by a personal check meeting the criteria established in accordance with subdivision (c)

(c) Each court, sheriff, or other agency which regularly accepts deposits of bail, shall adopt a written policy governing the acceptance of personal checks in payment of bail deposits The policy shall permit clerks and other appropriate officers to accept personal checks under conditions which tend to assure the validity of the checks.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections 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 It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 952

An act to amend Sections 19614, 19626, 19627.2, 19627.5, 19630 1, 19636, and 19637 of, to repeal and add Sections 19620, 19627, 19627.3, 19630, and 19630.3 to, and to repeal Sections 19621 and 19629 of, the Business and Professions Code, and to amend Section 3853 of, and to add Section 3856 5 to, the Food and Agricultural Code, relating to fairs, and making an appropriation therefor.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 19614 of the Business and Professions Code is amended to read:

19614. (a) Notwithstanding the provisions of Sections 19611 and 19612, and except as provided in Section 19612.5, the California Exposition and State Fair or a district or county fair at which the average daily handle exceeds six hundred fifty thousand dollars ($650,000) and the total handle for the meeting does not exceed thirty million dollars ($30,000,000), shall deduct 15.75 percent from the parimutuel pools relating to its meeting, shall pay a license fee of 5.5 percent of the total amount handled, shall distribute 5.35 percent to purses, and shall retain 4.90 percent as commissions. The amount to be distributed as purses for the current racing meeting shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

(b) Notwithstanding subdivision (a), any such fair racing association shall, for fair racing meetings, whether or not such fair racing meeting is conducted by a fair racing association or any other association under a contract, agreement, or lease, held during an annual fair, deduct 1 percent, in addition to the 15 75 percent, from the total amount handled in the parimutuel pools resulting from such fair racing meetings. The additional 1 percent shall be used for the purposes specified in Section 19627.2. Any funds received under this subdivision shall be deposited in the Fair and Exposition Fund and are hereby appropriated for the purposes specified in Section 19627 2.

SEC. 2. Section 19620 of the Business and Professions Code is repealed.

SEC. 3 Section 19620 is added to the Business and Professions Code, to read:

19620 (a) From the total revenue received by the board, exclusive of money received pursuant to Sections 19640 and 19641, the sum of two hundred sixty-five thousand dollars ($265,000) plus an amount equal to $^{63}/_{100}$ of 1 percent of the gross amount of money handled in the annual parimutuel pool shall be paid into the State Treasury to the credit of the Fair and Exposition Fund.

(b) From the total revenue received by the board, exclusive of money received pursuant to Sections 19640 and 19641, and in addition to the funds paid into the State Treasury to the credit of the Fair and Exposition Fund as specified in subdivision (a), the Legislature shall annually appropriate and deposit to the credit of the Fair and Exposition Fund such sums as it deems necessary for the following purposes:

(1) For the support of the board, including any costs and expenses incurred by the Attorney General in the enforcement of this chapter

as shall be authorized by the board.

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

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

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

SEC. 4. Section 19621 of the Business and Professions Code is repealed.

SEC 5 Section 19626 of the Business and Professions Code is amended to read:

19626. The first balance of the fund is hereby annually appropriated as follows:

(a) One hundred fifty thousand dollars ($150,000) for citrus fruit fairs defined in Section 4603 of the Food and Agricultural Code held in counties within area 7, as described by Section 4532 of the Food and Agricultural Code. If there is but one such fair in such counties, all of such one hundred fifty thousand dollars ($150,000) is allocated to and for the use of such fair.

(b) Other citrus fairs and expositions in area 1 to 6, inclusive, described in Section 4532 of the Food and Agricultural Code, shall be eligible for apportionment from, and subject to the limitations of, Section 19627.

(c) No appropriation shall be made under this section to any citrus fruit fair or citrus fruit fair and exposition which did not receive such an appropriation prior to 1959.

(d) Funds appropriated by this section are for the purpose of conducting and carrying on annual citrus fruit fairs and expositions to promote and encourage the citrus fruit industry of this state.

SEC. 6. Section 19627 of the Business and Professions Code is repealed

SEC. 7. Section 19627 is added to the Business and Professions Code, to read

19627. (a) Six million four hundred sixty thousand ($6,460,000) of the first balance of the fund is hereby annually appropriated to the Department of Food and Agriculture for the encouragement of county, district, or combined county and district fairs exclusive of the California Exposition and State Fair, the Los Angeles County Fair, 1-A District Agricultural Association, the Sixth District Agricultural Association, known and designated as the California Museum of Science and Industry, the 48th District Agricultural Association, and citrus fruit fairs referred to in subdivision (a) of Section 19626, to be

apportioned by and expended under the supervision of the Department of Food and Agriculture in the manner and for the purpose prescribed by Part 4 (commencing with Section 4401) of Division 3 of the Food and Agricultural Code and other applicable provisions of law including this section.

(b) The Department of Food and Agriculture shall apportion the money appropriated by this section to the several eligible county, district, or combined county and district agricultural fairs, or citrus fruit fairs on the basis of the need of each such fair for financial assistance from the state during the year for which the apportionment is to be made. No such fair shall receive such an apportionment in excess of such need as established by the department. In determining such need, the department shall take into consideration, as to each fair, all relevant factors, including, but not limited to the following:

(1) Net expenditures or revenues shown in the budget.

(2) The amount of money available to the fair from state, local, or any other sources.

(3) The amount of available reserve funds, except for the revenues accumulated under Section 19627.5.

(4) The amount of funds, if any, allocated under subdivision (b) of Section 19630.

(5) A performance report on fairs allocated funds pursuant to this section, to be prepared by the department.

(6) The establishment of a master plan by each fair receiving funds pursuant to this section.

(7) The submission of an annual maintenance program, as approved by the department.

No such county, district, or combined county and district agricultural fair, or citrus fruit fair shall receive an apportionment of more than eighty-five thousand dollars ($85,000) in any one year. No such fair shall be eligible for an apportionment pursuant to this section unless it has filed for each year subsequent to 1958 a statement of its operations during such year as provided in Section 4505 of the Food and Agricultural Code, irrespective of whether or not an apportionment for any such year or years was sought or made and all such fairs shall be deemed to be subject to such Section 4505 for all purposes.

SEC. 8. Section 19627.2 of the Business and Professions Code is amended to read·

19627.2 The funds made available pursuant to subdivision (b) of Section 19614, shall be allocated by the Director of Food and Agriculture for the following activities

(a) For payment of premiums authorized by the Department of Food and Agriculture according to those categories established under the provisions of Section 4501 of the Food and Agricultural Code.

(b) For purposes specified in Section 4401 5 of the Food and Agricultural Code

(c) For the purposes specified in Section 51004 of the Education Code to support student organizational activities, approved by an appropriate local educational agency, in the fields of agricultural and vocational education. The Director of Food and Agriculture shall annually invite school districts, the Vocational Education Unit of the Department of Education, and state-supported fairs to which Article 10 (commencing with Section 19620) of Chapter 4 of Division 8 is applicable, together and cooperatively, including the California Exposition and State Fair, to apply for funding for the purposes specified in Section 51004 of the Education Code.

The Director of Food and Agriculture shall develop a standard application procedure and criteria for approval of grants for projects funded under the provisions of subdivisions (b) and (c), and ensure that the funds allocated under this section do not supplant existing activities currently conducted and funded from other sources, public or private.

Any funds not allocated pursuant to the provisions of this section shall be allocated under the provisions of Section 19630. The Director of Food and Agriculture shall determine the need for allocation of funds under the provisions of Section 19630 prior to making any allocations pursuant to this section.

SEC 9 Section 19627.3 of the Business and Professions Code is repealed.

SEC. 10. Section 19627.3 is added to the Business and Professions Code, to read.

19627.3. There is hereby appropriated annually from the first balance of the fund the sum of two million two hundred fifty thousand dollars ($2,250,000) or so much thereof as may be approved by the Director of Food and Agriculture, in his discretion, which shall be available for expenditure, without regard to fiscal years, for any of the following

(a) Permanent improvements for fair purposes upon the property of any county or district agricultural association fair which is subject to the provisions of Section 4505 of the Food and Agricultural Code, or of any citrus fruit fair defined in Section 4603 of the Food and Agricultural Code, or any other citrus fruit fair and exposition qualified to receive an allocation under subdivision (a) of Section 19626 or Section 19627.

(b) The purchase of equipment for fair purposes of county or district agricultural fairs, citrus fruit fairs, or citrus fruit fairs and expositions.

(c) The acquisition or purchase of real property, including costs of appraisal and incidental costs, to be used as sites for the permanent improvements specified in subdivision (a)

(d) Permanent improvements upon publicly owned real property adjacent to the real property of any district agricultural association fair which is subject to the provisions of Section 4505 of the Food and Agricultural Code, when such improvements materially benefit the property of the district

SEC 11. Section 19627 5 of the Business and Professions Code is amended to read.

19627 5. Notwithstanding the provisions of Section 19627, any unanticipated revenues, other than any allocation from the state, which are in excess of the approved budget for any fiscal or calendar year of any county, district, combined county and district fair, or citrus fruit fairs, shall be retained by such fair and may be expended for any purpose described in Section 19630; provided, however, that the amount so retained each budget year pursuant to this section shall not exceed 20 percent of the budgeted revenue

Such funds may be expended, without regard to any fiscal year, by any fair to which Section 19627 applies, upon positive action by the board of directors of such fair, which shall be recorded in the official minutes of such fair approving a plan of expenditure for such funds for the purposes described in Section 19630

SEC 12 Section 19629 of the Business and Professions Code is repealed.

SEC 13 Section 19630 of the Business and Professions Code is repealed

SEC. 14. Section 19630 is added to the Business and Professions Code, to read.

19630 (a) Any unallocated balance from subdivision (a) of Section 19620 or Section 19627 at the end of any fiscal year is hereby appropriated for allocation by the Director of Food and Agriculture for capital outlay to county, district, combined county and district, or citrus fruit fairs for fair projects involving public health and safety, for fair projects involving major and deferred maintenance, for fair projects necessary due to any emergency, for projects that are required by physical changes to the fair site, for projects that are required to protect the fair property or installation, such as fencing and flood protection, and for the acquisition or improvement of any property or facility that will serve to enhance the operation of the fair

It is the intent of the Legislature that such moneys shall be used primarily for those fairs whose sources of revenue may be limited for purposes described in this section

(b) Any money subject to allocation pursuant to subdivision (a) may be allocated by the Director of Food and Agriculture to county, district, or combined county and district fairs for general operational support purposes The limitations as to the maximum amount of apportionment provided for in Section 19627 shall not be applicable to such an allocation.

SEC 15 Section 19630 1 of the Business and Professions Code is amended to read

19630 1 There is hereby appropriated annually from the second balance of the fund, the sum of three million dollars ($3,000,000) for each of the 1976–77, 1977–78, and 1978–79 fiscal years for loans for allocation to state-supported fairs by the Director of Finance, for the purposes specified in Section 19627 3 and pursuant to the provisions

of Chapter 630 of the Statutes of 1975. For any loan or series of loans for any single project, if the total amount of the loan or the series of loans exceeds one million dollars ($1,000,000), the Director of Finance may extend the repayment time up to 15 years for any such loan or loans

The Director of Finance shall develop a criteria to determine eligibility of fairs applying for loans pursuant to this section.

Any funds appropriated by this section for any fiscal year may be allocated and used for loans during any fiscal year of 1976–77 to 1980–81, inclusive, for the purposes set forth in this section.

SEC 16 Section 19630.3 of the Business and Professions Code is repealed.

SEC. 17 Section 19630.3 is added to the Business and Professions Code, to read:

19630 3. From the total revenue received by the board, exclusive of money received pursuant to Sections 19640 and 19641, and in addition to the funds paid into the State Treasury to the credit of the Fair and Exposition Fund as specified in Section 19620 and subdivision (b) of Section 19614, the sum of two million dollars ($2,000,000) shall be deposited each year for the 1979–80 and 1980–81 fiscal years in the Fair and Exposition Fund, and such moneys are hereby appropriated to the Department of Food and Agriculture for allocation, without regard to any fiscal year, to county, district, combined county and district, or citrus fruit fairs for major and deferred maintenance projects.

SEC 18. Section 19636 of the Business and Professions Code is amended to read:

19636 All money appropriated pursuant to this article to the California Exposition and State Fair, the Los Angeles County Fair, the Sixth District Agricultural Association, known and designated as the California Museum of Science and Industry, the citrus fruit fairs defined in Section 4603 of the Agricultural Code, and the 1-A District Agricultural Association, except money allocated by the Director of Agriculture for fair purposes under Section 19627 3, is exempt from the provisions of Section 16304 of the Government Code, and shall remain available for expenditure from year to year until expended

SEC 19 Section 19637 of the Business and Professions Code is amended to read·

19637 Appropriations and allocations from the Fair and Exposition Fund made pursuant to this article, other than those made under subdivision (b) of Section 19620 and allocations made by executive order of the Director of Food and Agriculture for permanent improvements for fair purposes under Section 19627 3, are exempt from the provisions of Section 16304 of the Government Code The date of such executive order is deemed to be the date when the appropriation becomes available for expenditure

All appropriations and allocations made by this article which are not exempted by this section from the provisions of Section 16304 of the Government Code are subject to those provisions

Allocations for permanent improvements for fair purposes under Section 19627.3 are available to defray expenditures lawfully incurred prior to the date of the executive order involved, if the executive order so provides.

Upon reversion an allocation made by the Director of Food and Agriculture for permanent improvements for fair purposes under Section 19627.3 reverts to and becomes a part of the appropriation from which the allocation was made.

SEC 20. Section 3853 of the Food and Agricultural Code is amended to read:

3853. District 1a is the County of San Mateo and that portion of the City and County of San Francisco which is south of the following line:

Beginning at the Sloat Boulevard intersection with the Pacific Ocean easterly to St. Francis Boulevard to its intersection with Santa Clara Avenue, then southerly and easterly on Monterey Boulevard to its intersection with Interstate 280, then easterly on Interstate 280 to its intersection with Highway 101, then southerly on Highway 101, then easterly at its intersection with Paul Avenue, at Paul Avenue's intersection with 3rd Avenue and Gilman Avenue continue southeasterly on Gilman Avenue, then southerly on Hunters Point Expressway until its intersection with San Francisco Bay and San Mateo County Limit.

SEC. 21 Section 3856.5 is added to the Food and Agricultural Code, to read

3856.5. District 5 is all of the City and County of San Francisco which is not included within District 1a

SEC. 22 The Department of Food and Agriculture shall study the development of financial support for fairs by maximizing federal or grant funds, and shall report to the Legislature on or before July 1, 1980, with respect to its ability to develop such support. The Joint Committee on Fairs Allocation and Classification shall, on or before January 1, 1981, report its recommendations to the Legislature for the clarification of statutes pertaining to the purpose of fairs, particularly with regard to their role in urban areas.

CHAPTER 953

An act to amend Section 8169 of, and to add Article 3 (commencing with Section 8180) to Chapter 2.8 of Division 1 of Title 2 of, the Government Code, and to repeal Section 4 1 of Chapter 1242 of the Statutes of 1963, relating to Capitol area redevelopment

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 8169 of the Government Code is amended to read:

8169 The director may lease the real property owned by the state within the core area, and not under the jurisdiction of any other state agency, for purposes consistent with the Capitol Area Plan and the management thereof, for such term and upon such terms and conditions as the director may deem appropriate except that said lease shall provide that any property subsequently leased by a joint powers authority for which a lease or rental for a period of five years or more is contemplated shall be advertised and awarded utilizing for the purpose the same procedure followed by the director for other state properties. The director's authority to lease real property under this section shall include, but not be limited to, the authority to lease portions of buildings and facilities occupied or to be occupied in part by state agencies, to private parties and other public agencies for office, residential, parking and commercial uses consistent with the Capitol Area Plan.

With respect to residential leases, the director's authority included in this section shall not extend beyond the Capitol area. The director shall assure that tenants residing within the Capitol area are not involuntarily displaced as a result of leases executed after the effective date of this section. The director's authority shall also include the authority to enter into long-term leases not to exceed 60 years and to pledge, subordinate, hypothecate or to permit the assignment of such leases in connection with financing to be obtained by any lessee or sublessee

The Director of General Services may not execute a lease agreement for a term lease of more than five years between the state and another entity, enter into a joint powers agreement, or issue revenue bonds, notes of evidences of indebtedness offered by the joint powers authority, if the agreement concerns state-owned property in the County of Sacramento or the County of Yolo, unless not less than 30 days prior to its execution he notifies the chairman of the committee in each house of the Legislature which considers appropriations, the chairman of the appropriate policy committee in each house, and the Chairman of the Joint Legislative Budget Committee, or his designee, in writing of his intention to execute such an agreement The chairman of such committee or his designee may determine a lesser notification period prior to execution A copy of such notice shall be provided to any person who requests the director in writing for such notice

The Legislature does hereby find that it will be of broad public benefit to lease some residential units in the Capitol area to low- and moderate-income persons for less than prevailing market rental rates Therefore, the director is authorized to rent or to provide for the rental of residential facilities to low- and moderate-income persons, as defined in Section 41056 of the Health and Safety Code,

for less than market rental rates and to enter into long-term ground leases at nominal or below market rental rates when the director deems it will benefit low- and moderate-income persons.

All leases of state-owned property in the core area to any private person for other than parking shall be subject to possessory interest taxes in accordance with Chapter 1 (commencing with Section 101) of Part 1 of Division 1 of the Revenue and Taxation Code

SEC. 2 Article 3 (commencing with Section 8180) is added to Chapter 2 8 of Division 1 of Title 2 of the Government Code, to read·

Article 3. Capitol Area Redevelopment

8180 The following terms, used in this article, shall have the following meanings·

(a) "Project area" means the area within the City of Sacramento which is bounded on the north by "L" Street, on the south by "R" Street, on the west by Seventh Street, and on the east by Seventeenth Street, excepting any portion of such area which is within the boundaries of a redevelopment project area adopted prior to April 1, 1979, by the City of Sacramento pursuant to the Community Redevelopment Law

(b) "Redevelopment plan" means the Capitol Area Plan approved by the Director of General Services on March 15, 1977, and referred to in Section 8160, together with documents adopted pursuant to Section 8183.

(c) "Authority" means the Capitol Area Development Authority created by the joint powers agreement executed pursuant to Section 8169 4 by the Director of General Services of the State of California and the Mayor of the City of Sacramento on July 1, 1978

8181 The Legislature finds and declares that:

(a) The project area is blighted and in need of redevelopment in the interest of the health and safety and general welfare of the people of the City of Sacramento and the State of California

(b) The authority is the appropriate entity to direct the redevelopment of the project area.

(c) The redevelopment plan provides an appropriate plan for the redevelopment of the project area.

8182. The authority shall have those powers of a redevelopment agency created by Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, which the authority, by resolution, from time to time deems appropriate, and such powers shall be deemed to be powers common to the Department of General Services and the City of Sacramento

8183 (a) The authority may, by resolution, adopt documents necessary or convenient to the exercise of its powers and may designate that any such document shall be incorporated into the redevelopment plan

(b) Documents adopted pursuant to subdivision (a) may include a requirement that taxes, including possessory interest taxes, levied

upon taxable property within the project area after the effective date of the resolution adopting such document or documents be divided as follows·

(1) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the táxable property in the project area as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the effective date of such resolution, shall be allocated to, and when collected shall be paid into, the funds of the respective taxing agencies, as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in the project area on the effective date of such resolution but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the county last equalized on the effective date of said resolution shall be used in determining the assessed valuation of the taxable property in the project area on said effective dates), and

(2) That portion of said levied taxes each year in excess of such amount shall be allocated to, and when collected shall be paid into, a special fund of the authority to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the authority to finance or refinance, in whole or in part, the redevelopment of the project area Unless and until the total assessed valuation of the taxable property in the project exceeds the total assessed value of the taxable property in the project area as shown by the last equalized assessment roll referred to in paragraph (1), all of the taxes levied and collected upon the taxable property in the project area shall be paid into the funds of the respective taxing agencies When such loans, advances, and indebtedness, if any, and interest thereon have been paid, then all moneys thereafter received from taxes upon the taxable property in the project area shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid

(c) In the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed or otherwise) by the authority to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes mentioned in paragraph (2) of subdivision (b) may be irrevocably pledged for the payment of the principal of and interest on said loans, advances, or indebtedness

(d) Any documents designated to be incorporated into the redevelopment plan may be adopted at any regular or special meeting of the authority Notice of the authority's intent to adopt such a document shall be stated in the agenda prepared in connection with the meeting at which the document is adopted, which agenda shall be made available to the public in the manner specified in Section 54956 No other notice shall be required in

connection with the adoption of such documents.

8184. For the purpose of allocating taxes pursuant to Section 8183, state subvention payments made with respect to property within the project area are deemed to be taxes levied upon such property.

8185. For the purpose of exercising powers of a redevelopment agency, the jurisdiction of the authority shall be the "metropolitan area" as defined in subdivision (a) of Section 8160.1.

8186. The City of Sacramento shall not adopt a plan containing the provisions of Section 33670 of the Health and Safety Code with respect to any portion of the project area.

8187. No action attacking or otherwise questioning the validity of any redevelopment plan or any adoption or incorporation of any document into the redevelopment plan as provided in subdivision (a) of Section 8183, or any findings or determinations of the authority in connection with such plan shall be brought prior to the adoption of the redevelopment plan nor at any time after the elapse of 60 days from the date of adoption of the resolution adopting the plan or any document.

An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including, but not limited to, the validity of any document adopted or incorporated into the redevelopment plan, or the legality and validity of all proceedings taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds and for the payment of the principal thereof and interest thereon.

8188. The judgment shall determine the validity or invalidity respectively of the matters specified in Section 8187. The judgment shall be subject to being reopened under the provisions of Section 473 or 473a of the Code of Civil Procedure, or otherwise only within 90 days after the entry of the judgment, and the petitioner and any person who has appeared in the special proceeding shall have the right to move for a new trial under proper circumstances and upon appropriate grounds and shall have the right to appeal from the judgment.

8189 The judgment, if no appeal is taken, or if taken and the judgment is affirmed, shall be forever binding and conclusive, as to all matters therein adjudicated or which at that time could have been adjudicated, against the authority and against all other parties, and if the judgment determines that the redevelopment plan is valid and effective, the authority is authorized to issue such bonds and such bonds when issued shall be valid, the judgment shall permanently enjoin the institution by any person of any action or proceeding raising any issue to which the judgment is binding and conclusive.

8190 Whenever property in the project area has been redeveloped and thereafter is leased for a term not less than 10 years,

notwithstanding mutual rights of termination, by the authority to any person or persons or whenever the authority leases real property to any person or persons for redevelopment, for a term not less than 10 years notwithstanding mutual rights of termination, the property shall be assessed and taxed in the same manner as privately owned property, and the lease or contract shall provide that the lessee shall pay taxes upon the assessed value of the entire property and not merely the assessed value of his or its leasehold interest.

8191. Except with respect to taxes allocated to the authority pursuant to subdivision (b) of Section 8183 which are used by the authority to make payments with respect to the installation of street lights and sidewalks within the project area, not less than 20 percent of such taxes shall be used by the authority for the purpose of increasing and improving, within the jurisdiction of the authority, the supply of housing for persons of low income as defined in Section 50093 of the Health and Safety Code and for persons and families of moderate income as defined in Section 50093 of the Health and Safety Code.

8192 The lessee of any property leased from the authority for residential purposes for a term of five years or less shall receive a credit against future rental payments, or a refund if he is no longer leasing the property, upon submission to the authority that he has paid the taxes imposed on him for his possessory interest in the property The amount of the credit or refund shall be the amount of the tax actually paid.

8193. (a) During the period commencing on July 1, 1982, and ending when 600 newly constructed dwelling units have been completed and occupied, the authority shall make available at affordable rents to low-income households at least 25 percent of the existing dwelling units.

(b) Beginning when 600 newly constructed dwelling units have been completed and occupied, the authority shall make available at affordable rents to low-income households at least 25 percent of the total number of dwelling units located on property leased by the authority from the department

(c) The number of dwelling units which are required to be made available in the manner specified in subdivisions (a) and (b) shall be increased or decreased to reflect increases or decreases in the number of such units which are leased by the authority from the department.

(d) The term "existing dwelling units," as used in this section, means residential units located on property which was leased by the authority from the department on July 1, 1979.

(e) The term "newly constructed dwelling units," as used in this section, means residential units located on property which is first leased by the authority from the department after July 1, 1979.

(f) The term "affordable rents," as used in this section, means rents (including utility allowances established by authority) not exceeding 25 percent of the gross income of the occupant, person, or

family.

(g) The term "low-income households," as used in this section, means persons and families whose income does not exceed 80 percent of the median income of the Sacramento County Standard Metropolitan Statistical Area as adjusted by the United States Department of Housing and Urban Development.

(h) During the period commencing on January 1, 1980, and ending when 600 newly constructed dwelling units have been completed and occupied, the authority shall establish a schedule of rents designed to make available to low-income households not less than 400 units at as close to affordable rents as the authority deems practicable in light of its budgetary needs regarding its duties and obligations. The schedule shall be designed to impose market rate rents for remaining units leased by the authority from the department.

(i) During period set forth in subdivision (h), rents for the 400 units referred to in subdivision (h) shall only be increased by an amount the authority determines is equal to the increase in the cost of operation and maintenance (including overhead) of the units The foregoing determination shall be based on evidence presented at a regular or special meeting of the authority's governing body.

(j) During the period commencing on January 1, 1980, and ending when 600 newly constructed dwelling units have been completed and occupied, the provisions of subdivision (b) shall be a goal of the authority, which the authority shall pursue, giving due consideration to the provisions of the redevelopment plans and other duties and obligations of the authority. To this end, the authority shall utilize to the extent it deems appropriate:

(1) Tax exempt financing for the construction of residential dwelling units, and

(2) Federal and state programs for the subsidization of low-income households.

(k) On or before November 1, 1980, and annually thereafter, the authority shall make public a status report regarding the authority's progress in achieving the housing production goals set forth in subdivisions (a) and (b) The status report shall (1) set forth the degree to which the authority has achieved this goal, and (2) specify programs the authority intends to pursue to achieve this goal.

(l) At the time the authority leases property for newly constructed dwelling units, it shall enter into a written lease with the developer of the units, designating the number of the units, if any, to be made available on a priority basis within that development to low-income households. If the number of units occupied by low-income households in the development ever falls below the designated number, then units which become available for occupancy shall, subject to available subsidies, be made available on a priority basis to low-income households until the number of units so occupied equals at least the number specified in the agreement. The authority may from time to time review agreements designating

such units and, subject to agreement with the developer or his or her successors, may increase the number of units to be made available to low-income households. For the purpose of determining whether the authority is satisfying the provisions of subdivision (b), units designated pursuant to this agreement shall be conclusively presumed to be available to low-income households at affordable rent. The authority shall monitor and enforce the provisions of this subdivision.

SEC. 3. Section 4.1 of Chapter 1242 of the Statutes of 1963 is repealed.

SEC. 4. The provisions of Section 8184 of the Government Code, as enacted by Section 2 of this act, are declaratory of existing law with respect to the allocation of taxes pursuant to Section 33670 of the Health and Safety Code

SEC. 5. The provisions of Section 2 of this act are intended to make specific and fulfill the duties and carry out the policy contained in the provision of Section 8169 of the Government Code which is deleted by Section 1 of this act.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the Legislature finds and declares that there are no new duties, obligations, or responsibilities imposed on local government by this act that require reimbursement. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 954

An act to amend Sections 8525, 8646, and 8652 of, and to add Section 8646 5 to, the Business and Professions Code, relating to structural pest control.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 8525 of the Business and Professions Code is amended to read.

8525. The board, subject to the approval of the director, may, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, adopt, amend, repeal, and enforce reasonably necessary rules and regulations relating to the practice of pest control and its various branches as established by Section 8560 and the administration of this chapter

The board shall give notice of adoption of such rules and

regulations to all persons licensed under this chapter at least 30 days prior to the effective date of the regulations.

By January 1, 1981, the Structural Pest Control Board and the Department of Food and Agriculture shall, in cooperation with the California Agricultural Commissioner's Association, develop an interagency agreement to coordinate all pesticide enforcement actions regarding persons licensed under this chapter. The board shall consult with the Department of Industrial Relations with regard to regulations concerning worker health and safety.

SEC. 2. Section 8646 of the Business and Professions Code is amended to read:

8646. Disregard and violation of pesticide application, fumigation, or extermination laws of the state or of any of its political subdivisions is a ground for disciplinary action.

SEC. 3. Section 8646.5 is added to the Business and Professions Code, to read:

8646.5. A notice of noncompliance shall be issued to a licensee whenever an authorized investigator or inspector of the board finds that a pesticide application, fumigation or extermination procedure being performed by the licensee is not in compliance with applicable laws, rules, or regulations. Upon receiving such notice, the licensee shall discontinue such pest control work until the procedure is brought into compliance. Failure to discontinue after receiving a notice of noncompliance is a ground for disciplinary action.

SEC. 4. Section 8652 of the Business and Professions Code is amended to read:

8652. Failure of an operator to make and keep all inspection reports, contracts, documents, and records, other than financial records, for a period of not less than two years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. Such records shall be made available to the registrar during business hours.

SEC. 5. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code

---

CHAPTER 955

An act to amend Sections 2902, 2946, 2960, and 2987 of, and to add Article 10 5 (commencing with Section 730) to Chapter 1 of Division 2 of, the Business and Professions Code, relating to business and professions

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Article 10 5 (commencing with Section 730) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read·

Article 10.5. Unprofessional Conduct

730. The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer which is substantially related to the qualifications, functions, or duties of the occupation for which a license was issued constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division, under Chapter 17 (commencing with Section 9000) of Division 3, and under Chapter 4 (commencing with Section 17800) of Part 3 of Division 7.

731. The provisions of subdivision (2) of Section 1103 of the Evidence Code shall apply in disciplinary proceedings brought against a licensee for acts in violation of Section 730.

SEC 2. Section 2902 of the Business and Professions Code is amended to read:

2902. As used in this chapter, unless the context clearly requires otherwise and except as in this act expressly otherwise provided.

(a) "Licensed psychologist" means an individual to whom a license has been issued pursuant to the provisions of this chapter, and which license is in force and has not been suspended or revoked

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance. "Committee" means the Psychology Examining Committee.

(c) A person represents himself to be a psychologist when he holds himself out to the public by any title or description of services incorporating the words "psychology," "psychological," "psychologist," "psychometry," "psychometrics" or "psychometrist," "psychotherapy," "psychotherapist," "psychoanalysis," "psychoanalyst" or when he holds himself out to be trained, experienced or an expert in the field of psychology.

(d) "Accredited," as used with reference to academic institutions, means the University of California, a California state university or college, an institution accredited under the provisions of subdivision (a) of Section 94310 of the Education Code, or an institution located in another state which is accredited by a national or an applicable regional accrediting agency recognized by the Office of Education of the United States Department of Health, Education, and Welfare.

(e) "Approved," as used with reference to academic institutions, means approved under the provisions of subdivision (b) of Section 94310 of the Education Code.

SEC. 3. Section 2946 of the Business and Professions Code is amended to read:

2946. The committee shall direct the board to grant a license without examination by the committee to any person who, at the time of application is licensed or certified by a psychology licensing authority in another state if the requirements for obtaining a certificate or license in such state were substantially equivalent to the requirements of this chapter.

A psychologist certified or licensed in another state and who has made application to the committee for a license in this state may perform activities and services of a psychological nature without a valid license for a period not to exceed 180 calendar days from the time of submitting his or her application or from the commencement of residency in this state, whichever first occurs.

The committee at its discretion may waive those parts of the examination, including either the whole of the written or the oral examinations, when in the judgment of the committee the applicant has already demonstrated competence in areas covered by those parts of the examination The committee at its discretion may waive the examination for diplomates of the American Board of Examiners in Professional Psychology or psychologists who have made a significant contribution to psychology and have had at least 10 years of experience

SEC. 4. Section 2960 of the Business and Professions Code is amended to read:

2960 The committee may order the denial of an application for, or issue with terms and conditions, or the suspension for a period not exceeding one year, or the revocation of, or the imposition of probationary conditions upon, a license or registration for any of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person, or the public, or to an extent that such use impairs his ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter

(f) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals.

(g) Violating Section 17500

(h) Willful, unauthorized communication of information received

in professional confidence.

(i) Violating any rule of professional conduct promulgated by the committee and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

(m) The suspension, revocation or imposition of probationary conditions by another state of a license or certificate to practice psychology or as a psychological assistant issued by that state to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.

(n) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a patient, or sexual misconduct which is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

CHAPTER 956

An act to add and repeal Section 8610.5 to the Government Code, relating to emergencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 8610.5 is added to the Government Code, to read:

8610.5. The Office of Emergency Services, in consultation with the State Department of Health Services and affected counties, shall investigate the consequences of a serious nuclear powerplant accident for each of the four nuclear powerplants in California with a generating capacity of 50 megawatts or more. This study, to be completed within six months of the effective date of this section, shall include the preparation of specific site maps showing the areas likely to be affected by such an accident. These maps shall delineate Emergency Planning Zones, which shall reflect inhalation, ingestion, and other radiation pathways.

A similar study shall be made by the office for any subsequent nuclear powerplant with a generating capacity of 50 megawatts or more proposed for certification in California.

The Office of Emergency Services shall revise its Nuclear Powerplant Emergency Response Plan to reflect the information

provided in the study. The Office of Emergency Services shall assist local authorities in preparing or upgrading their emergency response plans to reflect its new planning guidelines. The state plan shall be updated within six months after the study has been made. Local plans shall be updated and approved by the Office of Emergency Services in accordance with the following: (1) an initial draft plan shall be submitted to the office within six months after the study has been made, and (2) a final plan shall be completed, reviewed, and approved within 18 months after the effective date of this section. Neither the state plan nor any local plan shall become effective or be implemented until submitted to the Legislature and approved by statute.

The current State Nuclear Power Plant Emergency Response Plan shall continue in full force and effect unless and until revised pursuant to this section and concurred in, or otherwise approved by, the Nuclear Regulatory Commission. Local plans shall remain in full force and effect unless and until revised pursuant to this section.

It is the intent of the Legislature that all state and local costs related to carrying out the provisions of this section which are not reimbursed by federal funds shall be borne by the operators of the four existing nuclear powerplants having a generating capacity of 50 megawatts or more, and that local agencies shall be reimbursed for their costs incurred in preparing or updating their plans for the affected area surrounding such powerplants by the operator of each such powerplant. The Public Utilities Commission shall develop and transmit to the Office of Emergency Services an equitable method of assessing the operators of such powerplants for their reasonable pro rata share of state agency costs. Each local agency involved shall submit a statement of its costs in such manner as the Office of Emergency Services shall require. Upon each such operator's notification by the Office of Emergency Services from time to time of the amount of its share of the actual or anticipated state and local agency costs, the operator shall pay such amount to the State Controller for deposit in the Nuclear Planning Assessment Special Account, which is hereby created in the General Fund and is continuously appropriated to the State Controller to carry out the provisions of this section. The State Controller shall pay from this account the state and local costs relative to carrying out the provisions of this section upon certification thereof by the Office of Emergency Services. Each powerplant operator shall within one month of the effective date of this section pay to the State Controller for deposit into the Nuclear Planning Assessment Special Account the sum of twenty-five thousand dollars ($25,000) for each nuclear powerplant for the purpose of funding initial planning costs. Upon repeal of this section, any amounts remaining in the special account shall be refunded pro rata to the powerplant operators contributing thereto. In no event shall the total of the reimbursements of state costs from all powerplant operators pursuant to this section exceed two million dollars ($2,000,000). The amounts paid by privately

owned utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission. Publicly owned public utilities may include amounts paid under this section in their rates.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute which is chaptered on or before January 1, 1983, deletes or extends such date.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

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

In order to protect the public health and safety in the event of a nuclear powerplant accident, it is essential that this act take immediate effect.

CHAPTER 957

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 22, 1979. Filed with Secretary of State September 22, 1979]

I am reducing the appropriation contained in Section 1 of Senate Bill No. 321 from $2,425,464 66 to $2,030,839 24 by reducing the General Fund appropriation from $2,048,508.39 to $1,653,882 97

This bill appropriates $229,350 from the General Fund for the payment of a claim to refund a contract cancellation fee The cancellation fee is appropriate and was on the basis of changes in business decisions.

The bill also appropriates $165,275 42 from the General Fund for the payment of various Medi-Cal provider claims which were either not submitted or were submitted well past the time limitation allowed I feel it would be unwise to set a precedent by approving claims which do not fall within acceptable time constraints.

With these reductions, I approve Senate Bill No 321

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 twenty-five thousand four hundred sixty-four dollars and sixty-six cents ($2,425,464.66) 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	$2,048,508.39
State Transportation Fund	
Motor Vehicle Account	154,104.04
State Highway Account	26,992.22
Transportation Tax Fund	
Motor Vehicle License Fee Account	2,643.10
Fish and Game Preservation Fund	2,697.00
Health Care Deposit Fund	32,500.00
Real Estate Fund	37.50
Unemployment Fund	82.00
Unemployment Administration Fund	27,234.83
Unemployment Compensation Disability Fund	1,273.86
Water Resources Revolving Fund	4,841.30
Board of Osteopathic Examiners Fund	60,548.00
State Teachers' Retirement Fund	36,762.00
Item 260, Budget Act of 1978	19,000.00
Item 279, Budget Act of 1978	1,159.08
Item 295, Budget Act of 1978	7,081.34
Total	$2,425,464.66

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 958

An act to amend Sections 86 and 1176 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 86 of the Code of Civil Procedure is amended to read·

86. (a) Each municipal and justice court shall have original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except such courts shall have jurisdiction in actions to enforce payment of

delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when such relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, such contract; in actions to revise a contract where such relief is sought in an action upon such contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of such liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 1181) of Title 4 of Part 3 of this code where the amount of such liens is fifteen thousand dollars ($15,000) or less; provided, that where an action to enforce any such lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of such liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order such action or actions pending therein transferred to the proper superior court. Upon the making of such order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right or indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary

injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver in aid of execution as provided in subdivision 4 of Section 564; to charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by such court in the manner provided in Section 15028 of the Corporations Code, or any amendment thereof, and in such cases to appoint a receiver and to make any order or perform any act mentioned or authorized in such section; in proceedings under Section 689, or any amendments thereof, to determine title to personal property seized in an action pending in, or upon execution issued by, such court.

(9) In all actions under Section 720 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(b) Each municipal and justice court shall have jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 2. Section 1176 of the Code of Civil Procedure is amended to read:

1176. (a) An appeal taken by the defendant shall not stay proceedings upon the judgment unless the judge before whom the same was rendered so directs.

(b) A new cause of action on the same agreement for the rental of real property shall not be barred because of an appeal by any party.

SEC. 3. It is the intention of the Legislature that the amendments to Section 1176 of the Code of Civil Procedure made by this act shall, and shall be construed to, overturn the holding of the court in the case of Woods-Drury, Inc. v. Superior Court (1936), 18 Cal. App. 2d 340, to the extent that the court in that case precluded a trial court from taking any action short of dismissal with respect to any unlawful detainer actions filed by a landlord because of a prior unlawful detainer action brought by the landlord where the judgment in such

prior action had not yet become final.

CHAPTER 959

An act to amend Sections 10143, 10161.75 and 10171 of, and to repeal and add Section 10171.6 of, the Business and Professions Code, relating to real estate.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 10143 of the Business and Professions Code is amended to read:

10143 (a) Any person who attempts to negotiate a rental or who furnishes rental information to a prospective tenant for a fee paid by said prospective tenant shall give every such prospective tenant a contract or receipt, and in such contract or receipt shall undertake to repay any amount over and above the sum of twenty-five dollars ($25) service charge to the prospective tenant if the prospective tenant does not obtain a rental. A demand from the prospective tenant for the return of the fee, or any part of it, shall be made within 10 days following the final day on which the real estate licensee has contracted to perform services to the prospective tenant. The contract in no event shall exceed 90 days. In the event that rental information is not current or accurate in regard to the type of rental desired, the full fee shall be repaid to the tenant. Such contract or receipt shall also conform to the regulations adopted by the commissioner in order to effect disclosure of material information regarding the service to be provided to the prospective tenant.

(b) This section shall not apply to those persons purchasing rental information for purposes other than that of locating a rental unit for their personal use or the use of a designated person. The contract shall so provide and must be initialed by the purchaser. Any use of this exclusion, except in a bona fide manner, shall constitute a violation of this section.

SEC. 3. Section 10161.75 of the Business and Professions Code is amended 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 all provisions of this part and is otherwise qualified.

SEC. 4. Section 10171 of the Business and Professions Code is amended to read:

10171 On and after January 1, 1981, no active real estate license shall be renewed unless the commissioner finds that the applicant for such renewal license has completed the continuing education

required by this chapter. Any denial of license renewal shall be subject to the provisions of Section 10100.

SEC 5 Section 10171 6 of the Business and Professions Code is repealed.

SEC 6 Section 10171.6 is added to the Business and Professions Code, to read·

10171.6. On and after January 1, 1981, the holder of an inactive license who applies for activation of the license shall present evidence of compliance with the continuing education requirements of this chapter if the applicant has not held an active real estate license within the four years immediately preceding the date of application for activation. If the applicant for activation is unable to present evidence of having satisfied the continuing education requirements of this chapter, the commissioner may upon a showing of hardship to the applicant activate the license for a period of not to exceed 90 days. If the licensee presents evidence of compliance with the continuing education requirements of this chapter within the period of active licensure authorized by the commissioner, the commissioner shall authorize activation for the remainder of the regular term of the license without any additional fee.

SEC. 7. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 960

An act to amend Sections 51227.5 and 51350 of, and to add Sections 51004.5, 51226.5, and 51227.7 to, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 Section 51004 5 is added to the Health and Safety Code, to read·

51004.5. On or before May 1 of each year, commencing in 1980, the agency shall submit to the Legislature and the Governor, an annual plan for using its revenue bonding authority for the succeeding fiscal year consistent with meeting the legislative goals and requirements for the agency, including requirements relating to units made available in each of its programs or proposed programs

for low and very low income households, the allocations between elderly and family households, and requirements relating to units for new construction and substantial rehabilitation. The agency shall review and update each annual plan on a quarterly basis. The agency's ability to implement the plan shall be reported in the annual report required by Section 51005.

SEC. 2. Section 51226.5 is added to the Health and Safety Code, to read:

51226.5. (a) Notwithstanding the provisions of Section 51226, in each housing development financed by the agency and insured under a federal multifamily insurance program, the agency shall enter into a loan commitment only in conformance with the following requirements:

(1) With respect to housing developments financed prior to September 1, 1981, not less than 20 percent of the units shall be made available on a priority basis for very low income households. In housing developments financed on or after such date, not less than 25 percent of the units shall be made available on a priority basis for very low income households.

(2) With respect to housing developments financed prior to July 1, 1980, an additional 10 percent or more of the units shall be made available on a priority basis for other persons and families of low income if a subsidy for the housing development is provided through the agency. On and after such date, the requirement of this subdivision shall be applicable regardless of whether the subsidy is provided through the agency or directly by the federal government.

(b) Not less than 75 percent of the units in a housing development financed by the agency and insured under a federal multifamily insurance housing program shall be made available on a priority basis for persons and families of low or moderate income.

(c) The agency may provide financing for housing developments for the elderly that are insured under a federal insurance program when the requirements of subdivisions (a) and (b) are met and (1) a minimum of 35 percent of the units in the development are made available for persons and families of low income, or (2) a majority of the units in the housing development which are to be made available for low income households are reserved for non-elderly households.

SEC. 3. Section 51227.5 of Health and Safety Code is amended to read:

51227.5. (a) It shall be a goal of the highest priority for the agency to finance no less than 1500 units (representing approximately 25 percent of the total units financed) for very low income households with the proceeds of the first three hundred million dollars ($300,000,000) of additional bonding authority provided by amendments to Section 51350 enacted by the act adding this section.

(b) The agency shall allocate not less than 50 percent of the proceeds of bonds issued pursuant to such additional bonding authority for loans for new construction or the substantial

rehabilitation of housing units. This requirement shall apply to the initial loans made with the bond proceeds specified in this section and may be waived by the agency to the extent it interferes with the financing of housing units for very low income households.

(c) The agency shall include within the plans required to be prepared pursuant to Section 51004.5, a report on its progress toward and ability to achieve the goals and requirements of subdivisions (a) and (b). Reporting obligations under this subdivision shall cease upon full achievement of, and compliance with, such goals and requirements, or upon submitting a report to the Legislature and Governor pursuant to subdivision (d), whichever first occurs.

(d) If, and at such time as the board determines it is not possible to achieve the goals and requirements of subdivisions (a) and (b), the agency shall promptly report to the Legislature and the Governor the reasons therefor and make recommendations for legislative action, including such appropriations as may be necessary to increase the supply of housing units for very low income households

(e) Nothing in this section shall be construed to modify or limit the other provisions of this division, including the provisions of Section 51227.7.

SEC. 4. Section 51227.7 is added to the Health and Safety Code, to read:

51227 7 It shall be a goal of the agency that not less than 80 percent of the dollar amount of financing from proceeds of bonds issued after December 31, 1979, be used to fund loans for the new construction or substantial rehabilitation of housing. In no event shall the agency allocate less than 60 percent of the dollar amount of its financing from bond proceeds to fund loans (1) for new construction and substantial rehabilitation and (2) to make available subsidized rental units. This requirement shall apply to loans made after December 31, 1979, and shall be cumulative.

As used in this section, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

SEC. 5 Section 51350 of the Health and Safety Code is amended to read.

51350. (a) The agency may from time to time, after action of the Housing Bond Credit Committee as provided in Section 51360, issue its negotiable bonds in such principal amount as the agency shall determine to be necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure such bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of such bonds.

(b) Sale of the bonds of the agency shall be coordinated by the State Treasurer To obtain a date for the sale of bonds, the agency shall inform the State Treasurer of the amount of the proposed issue. Upon such notification, the State Treasurer shall provide three

10-day periods, within the 90 days next following, when the bonds can be sold. The agency may choose any date during the suggested periods or any other date to which the agency and the State Treasurer have mutually agreed. The State Treasurer shall sell the bonds on the date chosen according to terms approved by the agency

The Housing Bond Credit Committee shall exercise its powers with due regard for the right of the holders of bonds of the agency at any time outstanding, and nothing in, or done pursuant to, this section shall in any way limit, restrict, or alter the obligation or powers of the agency or any member, officer, or representative of the agency or the State Treasurer to carry out and perform in every detail each and every convenant, agreement, or contract at any time made or entered into on behalf of the agency with respect to its bonds or its benefits, or the security of the holders thereof.

(c) Except as provided in subdivision (d), the aggregate principal amount of bonds, including both taxable and nontaxable bonds, which may be outstanding at any time pursuant to this part shall not exceed seven hundred fifty million dollars ($750,000,000), exclusive of the principal indebtedness of bonds issued to refund or renew previously issued bonds of the agency, to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premimum thereon and any interest accrued or to accrue to the date of redemption of such bonds, during the period in which both the previously issued bonds and the refunding or renewal bonds are outstanding.

(d) On and after January 1, 1980, the aggregate principal amount of bonds, including taxable and nontaxable bonds, which may be outstanding at any time pursuant to this part shall be increased by seven hundred fifty million dollars ($750,000,000), exclusive of (1) bonds previously authorized pursuant to subdivision (c) and (2) the principal indebtedness of bonds issued to refund or renew bonds of the agency previously issued under the authority of this subdivision, but only to the extent of the outstanding principal indebtedness of the previously issued bonds and any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, during the period in which both the previously issued bonds and such refunding or renewal bonds are outstanding.

CHAPTER 961

An act to amend Section 21080.9 of the Public Resources Code, relating to the California coastal zone.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 21080.9 of the Public Resources Code is amended to read:

21080.9. This division shall not apply to activities and approvals by any local government, as defined in Section 30109, or any state university or college, as defined in Section 30119, as necessary for the preparation and adoption of a local coastal program or long-range land use development plan pursuant to Division 20 (commencing with Section 30000); provided, however, that certification of a local coastal program or long-range land use development plan 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 or long-range land use development plan constitutes a plan for use in the California Coastal Commission's regulatory program.

CHAPTER 962

An act relating to the census.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1 It is the intent of the Legislature that the 1980 federal decennial census be as complete as possible. Such a complete census is essential if the State of California is to obtain its fair share of federal dollars and is necessary to ensure that state legislative and federal congressional districts, soon to be reapportioned, accurately reflect the population in this state.

In order to obtain an accurate count of the state population, there must be widespread public interest in the census and general understanding of the manner in which it is taken

SEC 2 The month of March in 1980 is hereby declared to be "Census Month" in the State of California. During this month, public educational agencies, including school districts, county offices of education, and the Department of Education, may conduct special informational programs regarding the census. Special materials, developed in cooperation with the United States Census Bureau, shall be disseminated by the Department of Education to all school districts and county offices of education for use in classrooms and to inform parents. All other state agencies may post and otherwise publicize information regarding the 1980 census

SEC 3. Basic curriculum materials regarding the census may be developed by the Department of Education in cooperation with the

United States Census Bureau, and shall be ready for use by school districts no later than six months prior to Census Month. Such materials may be used by school districts during the 1980 spring semester.

SEC. 4. The Department of Education shall report to the Legislature and to the Governor, by January 15, 1980, specifying the steps it will take to implement this act.

SEC. 5. The Department of Education may by interagency agreement seek funds made available in the Budget Act of 1979 to develop, print, and distribute materials supporting the activities of "Census Month".

CHAPTER 963

An act to add Section 330.8 to the Penal Code, relating to gambling devices.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 330.8 is added to the Penal Code, to read:

330.8. Notwithstanding the provisions of Sections 330a, 330b, and 330.1 to 330.5, inclusive, the sale, transportation, storage, and manufacture of gambling devices, as defined in Section 330.1, including the acquisition of essential parts therefor and the assembly of such parts, is permitted, provided such devices are sold, transported, stored, and manufactured only for subsequent transportation in interstate or foreign commerce when such transportation is not prohibited by any applicable federal law. Such activities may be conducted only by persons who have registered with the United States government pursuant to the provisions of Chapter 24 (commencing with Section 1171) of Title XV of the United States Code, as amended. Such gambling devices shall not be displayed to the general public or sold for use in California regardless of where purchased, nor held nor manufactured in violation of any applicable federal law. A violation of this section is a misdemeanor.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 964

An act to amend Section 1861 of, and to add Sections 1861.1, 1861.5, 1861.6, 1861.7, 1861.8, 1861.9, 1861.10, 1861.12, 1861.13, 1861.14, 1861 15, 1861.16, 1861 17, 1861.18, 1861.19, 1861.20, 1861 21, 1861.22, 1861.23, 1861.24, 1861.27, and 1861.28 to, the Civil Code, and to amend Section 116.2 of the Code of Civil Procedure, relating to liens.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 116.2 of the Code of Civil Procedure is amended to read:

116.2. The small claims division shall have jurisdiction in actions:

(a) For recovery of money only where the amount of the demand does not exceed seven hundred fifty dollars ($750);

(b) To enforce payment of delinquent unsecured personal property taxes in an amount not to exceed seven hundred fifty dollars ($750), if the legality of the tax is not contested by the defendant;

(c) In unlawful detainer, after default in rent for residential property, where the term of tenancy is not greater than month to month and the amount claimed does not exceed seven hundred fifty dollars ($750).

(d) To issue the writ of possession authorized by Section 1861.5 of the Civil Code where the plaintiff's claim does not exceed seven hundred fifty dollars ($750).

SEC. 1.5. Section 1861 of the Civil Code is amended to read:

1861. Hotel, motel, inn, boardinghouse, and lodginghouse keepers shall have a lien upon the baggage and other property belonging to or legally under the control of their guests, boarders, tenants, or lodgers which may be in such hotel, motel, inn, or boarding or lodging house for the proper charges due from such guests, boarders, tenants, or lodgers, for their accommodation, board and lodging and room rent, and such extras as are furnished at their request, and for all money paid for or advanced to such guests, boarders, tenants, or lodgers, and for the costs of enforcing such lien The lien may be enforced only after final judgment in an action brought to recover such charges or moneys. During the pendency of the proceeding, the plaintiff may take possession of the baggage and property pursuant to a writ of possession as provided by Sections 1861.1 to 1861 27, inclusive. However, if any baggage or property becoming subject to the lien herein provided for does not belong to the guest, lodger, tenant, or boarder who incurred the charges or indebtedness secured thereby, at the time when such charges or indebtedness was incurred, and if the hotel, motel, inn, boarding or lodginghouse keeper entitled to such lien receives notice of such fact

at any time before the sale of such baggage or property hereunder, then, and in that event, such baggage and property which is subject to said lien and did not belong to said guest, boarder, tenant, or lodger at the time when such charges or indebtedness was incurred shall not be subject to this lien.

Any property which is exempt from attachment or execution under the provisions of the Code of Civil Procedure shall not be subject to the lien provided for in this section.

SEC. 2. Section 1861.1 is added to the Civil Code, to read:

1861 1 Definitions for purposes of Sections 1861 through 1861 27 include the following,

(a) "Hotel", "motel", "inn", "boardinghouse", and "lodginghouse keeper" means any person, corporation, partnership, unincorporated association, public entity, or agent of any of the aforementioned, who offers and accepts payment for rooms, sleeping accommodations, or board and lodging and retains the right of access to, and control of, the dwelling unit.

(b) "Levying officer" means the sheriff, constable, or marshal who is directed to execute a writ of possession issued pursuant to this article

(c) "Plaintiff" means any party filing a complaint or cross complaint

(d) "Probable validity" means that the plaintiff, more likely than not, will obtain a judgment against the defendant on the plaintiff's claim

SEC. 3. Section 1861.5 is added to the Civil Code, to read:

1861.5. (a) Upon the filing of a complaint, or at any time thereafter, the plaintiff may apply, pursuant to this article, for a writ of possession by filing an application for the writ with the court in which the action was filed.

(b) The application shall be executed under oath and shall include all of the following:

(1) A showing of the basis of the plaintiff's claim, including a showing that the plaintiff is entitled to possession of the property claimed pursuant to an innkeepers' lien.

(2) A general description of the property and a statement of its value.

(3) A statement of the amount of money claimed to be owed by the guest, lodger, tenant, or boarder.

(c) The requirements of subdivision (b) may be satisfied by one or more affidavits filed with the application.

SEC 4. Section 1861.6 is added to the Civil Code, to read:

1861.6. (a) Except as otherwise provided in this section, no writ shall be issued under this article except after a hearing on a noticed motion.

(b) A writ of possession may be issued ex parte pursuant to this subdivision, if probable cause appears that the following conditions exist

(1) The property is not necessary for the support of the defendant

or his family;

(2) There is an immediate danger that the property will become unavailable to levy, by reason of being transferred, concealed, or removed from the state, or the premises of the motel, hotel, inn, boardinghouse, or lodginghouse, or will become substantially impaired in value by acts of destruction or by failure to take care of the property in a reasonable manner; and

(3) The ex parte issuance of a writ of possession is necessary to protect the property.

(4) The plaintiff establishes the probable validity of the plaintiff's claim.

The plaintiff's application for the writ shall satisfy the requirements of Section 1861.5 and, in addition, shall include a showing that the conditions required by this subdivision exist. A writ of possession may issue if the court finds that the conditions required by this subdivision exist, and the requirements of Section 1861.5 are met. Where a writ of possession has been issued pursuant to this subdivision, a copy of the summons and complaint, a copy of the application and any affidavit in support thereof, and a notice which satisfies the requirements of subdivisions (b) and (c) of Section 1861.8 and informs the defendant of his rights under this subdivision shall be served upon the defendant, and any other person required by Section 1861.8 to be served with a writ of possession. Any defendant whose property has been taken pursuant to a writ of possession issued under this subdivision may apply for an order that the writ be quashed, and any property levied on pursuant to the writ be released. Such application shall be made by noticed motion, and the provisions of Section 1861.9 shall apply. Pending the hearing of the defendant's application, the court may order that delivery pursuant to Section 1861.19 of any property previously levied upon be stayed. If the court determines that the plaintiff is not entitled to a writ of possession, the court shall quash the writ of possession and order the release and redelivery of any property previously levied upon, and shall award the defendant any damages sustained by the defendant which were proximately caused by the levy of the writ of possession and the loss of possession of the property pursuant to such levy.

SEC. 5. Section 1861 7 is added to the Civil Code, to read:

1861.7. Prior to the hearing required by subdivision (a) of Section 1861.6, the defendant shall be served with all of the following:

(a) A copy of the summons and complaint

(b) Notice of application and hearing.

(c) A copy of the application and any affidavit filed in support thereof.

SEC. 6. Section 1861.8 is added to the Civil Code, to read:

1861.8. The "Notice of Application and Hearing" shall inform the defendant of all of the following:

(a) The hearing will be held at a place and at a time, to be specified in the notice, on plaintiff's application for writ of possession

(b) The writ shall be issued if the court finds that the plaintiff's claim has probable validity and the other requirements for issuing the writ are established. The hearing is not for the purpose of determining whether the claim is actually valid; such determination shall be made in subsequent proceedings in the action.

(c) If the defendant desires to oppose the issuance of the writ, he shall file with the court either an affidavit providing evidence sufficient to defeat the plaintiff's right to issuance of the writ, or an undertaking to stay the delivery of the property in accordance with Section 1861.22.

(d) The notice shall contain the following statement in 10-point bold type:

"If you believe the plaintiff may not be entitled to possession of the property claimed, you may wish to seek the advice of an attorney. Such attorney should be consulted promptly so that he may assist you before the time set for the hearing."

SEC. 7. Section 1861.9 is added to the Civil Code, to read:

1861.9. Each party shall file with the court and serve upon the other party within the time prescribed by rule, any affidavits and points and authorities intended to be relied upon at the hearing. At the hearing, the court shall make its determination upon the basis of the pleadings and other papers in the record; but, upon good cause shown, the court may receive and consider additional evidence and authority produced at the hearing, or may continue the hearing for the production of additional evidence, oral or documentary, and the filing of other affidavits or points and authorities.

SEC. 8. Section 1861.10 is added to the Civil Code, to read:

1861 10. (a) At the hearing a writ of possession shall issue if all of the following are found:

(1) The plaintiff has established the probable validity of his claim to possession of the property of the tenant, boarder, or lodger.

(2) That the property which is described within the application for the writ is located on the premises of the motel, hotel, boardinghouse or lodginghouse.

(3) The plaintiff has provided an undertaking as required by Section 1861.21.

(b) No writ directing the levying officer to enter any premises to take possession of any property shall be issued unless the plaintiff has established that there is probable cause to believe that such property is located there.

SEC. 9. Section 1861.12 is added to the Civil Code, to read:

1861.12. The writ of possession shall meet all of the following requirements:

(a) Be directed to the levying officer within whose jurisdiction the property is located.

(b) Generally describe the property to be seized.

(c) Specify the apartment, motel, or other boarding premises that may be entered to take possession of the property, or some part of it.

(d) Direct the levying officer to levy on the property pursuant to Section 1861.18 if found on the described premises, and to retain it in his custody until released or sold pursuant to Section 1861.19.

(e) Inform the defendant that he has the right to except to the sureties upon the plaintiff's undertaking, a copy of which shall be attached to the writ, or to obtain the delivery of the property by filing an undertaking as prescribed by Section 1861.22.

SEC. 10. Section 1861.13 is added to the Civil Code, to read:

1861.13. Neither the failure of the defendant to oppose the issuance of a writ of possession under this article, nor his failure to rebut any evidence produced by the plaintiff in connection with proceedings under this article, shall constitute a waiver of any defense to the plaintiff's claim in the action, or any other action, or have any effect on the right of the defendant to produce or exclude evidence at the trial of any such action.

SEC. 11. Section 1861.14 is added to the Civil Code, to read:

1861.14. The determinations of the court under this article shall have no effect on the determination of any issues in the action, other than the issues relevant to proceedings under this article, nor shall they affect the rights of any party in any other action arising out of the same claim. The determinations of the court under this article shall not be given in evidence, or referred to in the trial.

SEC. 12. Section 1861.15 is added to the Civil Code, to read:

1861.15. If the plaintiff fails to recover judgment in the action, he shall redeliver the property to the defendant, and be liable for all damages sustained by the defendant, which are proximately caused by operation of the temporary restraining order and preliminary injunction, if any, the levy of the writ of possession, and the loss of possession of the property pursuant to the levy of the writ of possession.

SEC. 13. Section 1861.16 is added to the Civil Code, to read

1861.16. (a) At or after the time he files an application for a writ of possession, the plaintiff may apply for a temporary restraining order by setting forth in the application a statement of grounds justifying the issuance of such order.

(b) A temporary restraining order may issue ex parte if all the following are found·

(1) The plaintiff has established the probable validity of his claim and entitlement to possession of the property, pursuant to an innkeepers' lien.

(2) The plaintiff has provided an undertaking as required by Section 1861.21.

(3) The plaintiff has established the probable validity that there is an immediate danger that the property claimed may become unavailable to levy by reason of being transferred, concealed, or removed, or may become substantially impaired in value.

(c) If at the hearing on the issuance of the writ of possession the court determines that the plaintiff is not entitled to a writ of possession, the court shall dissolve any temporary restraining order,

otherwise, the court may issue a preliminary injunction to remain in effect until the property claimed is seized pursuant to the writ of possession

SEC. 14. Section 1861.17 is added to the Civil Code, to read:

1861.17. In the discretion of the court, the temporary restraining order may prohibit the defendant from doing any or all of the following:

(a) Transferring any interest in the property by sale, pledge, or grant of security interest, or otherwise disposing of, or encumbering, the property

(b) Concealing or otherwise removing the property in such a manner as to make it less available to seizure by the levying officer.

(c) Impairing the value of the property either by acts of destruction or by failure to care for the property in a reasonable manner.

SEC. 15. Section 1861.18 is added to the Civil Code, to read:

1861.18. (a) At the time of levy, the levying officer shall deliver to the person in possession of the property a copy of the writ of possession, with a copy of the plaintiff's undertaking attached.

(b) If no one is in possession of the property at the time of levy, the levying officer shall subsequently serve the writ and attached undertaking on the defendant. If the defendant has appeared in the action, service shall be accomplished in the manner provided by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If the defendant has not appeared in the action, service shall be accomplished in the manner provided for the service of summons and complaint by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2.

SEC. 16. Section 1861.19 is added to the Civil Code, to read.

1861 19. (a) After the levying officer takes possession pursuant to the writ of possession, he shall keep the property in a secure place. Except as otherwise provided in Section 1861.6

(1) If notice of the filing of an undertaking for redelivery or notice of exception to the plaintiff's sureties is not received by the levying officer within 10 days after levy of the writ of possession, the levying officer shall deliver the property to plaintiff, upon receiving his fees for taking, and necessary expenses for keeping, the property.

(2) If notice of the filing of an undertaking for redelivery is received by the levying officer within 10 days after levy of the writ of possession, and defendants' sureties are not excepted to, the levying officer shall redeliver the property to defendant upon expiration of the time to so except, upon receiving his fees for taking and necessary expenses for keeping the property not already paid or advanced by the plaintiff.

(3) If notice of exception to the plaintiff's sureties or notice of the filing of an undertaking for redelivery is received within 10 days after levy of the writ of possession, and defendant's sureties are excepted to, the levying officer shall not deliver or redeliver the property until the time provided in Section 1861.23

(b) Notwithstanding subdivision (a), when not otherwise provided by contract, and where an undertaking for redelivery has not been filed, upon a showing that the property is perishable, or will greatly deteriorate or depreciate in value, or for some other reason that the interest of the parties will be best served thereby, the court may order that the property be sold and the proceeds deposited in the court to abide the judgment in the action.

SEC. 17. Section 1861.20 is added to the Civil Code, to read:

1861.20. The levying officer shall return the writ of possession, with his proceedings thereon, to the court in which the action is pending, within 30 days after a levy, but in no event more than 60 days after the writ is issued

SEC. 18. Section 1861.21 is added to the Civil Code, to read:

1861.21. The court shall not issue a temporary restraining order or a writ of possession until the plaintiff has filed with the court a written undertaking. The undertaking shall provide that the sureties are bound to the defendant in the amount of the undertaking for the return of the property to the defendant, if the return thereof be ordered, and for the payment to him of any sum he may recover against plaintiff. The undertaking shall be executed by two or more sufficient sureties in an amount not less than twice the value of the property as determined by the court

SEC 19 Section 1861.22 is added to the Civil Code, to read

1861 22. (a) The defendant may prevent the plaintiff from taking possession of property, pursuant to a writ of possession, or regain possession of property so taken, by filing with the court in which the action was brought a written undertaking, executed by two or more sufficient sureties, in an amount equal to the amount of the plaintiff's undertaking, required by Section 1861.21 or, if there has been no judicial determination, the value of the property stated in the plaintiff's application for a writ of possession. The undertaking shall state that, if the plaintiff recovers judgment on the action, the defendant shall pay all costs awarded to the plaintiff and all damages that the plaintiff may sustain by reason of the loss of possession of the property, not exceeding the amount of the undertaking

(b) The defendant's undertaking may be filed at any time before or after the levy of the writ of possession A copy of the undertaking shall be mailed to the levying officer and to the plaintiff An affidavit stating that such copies have been mailed shall be filed with the court at the time the undertaking is filed

(c) The defendant's undertaking shall state the address to which a copy of the Notice of Exception to Sureties may be sent

(d) If an undertaking for redelivery is filed, and defendant's sureties are not excepted to, the levying officer shall deliver the property to the defendant, or, if the plaintiff has previously been given possession of the property, the plaintiff shall deliver such property to the defendant If an undertaking for redelivery is filed and defendant's sureties are excepted to, the provisions of Section 1861 shall apply

SEC. 20. Section 1861.23 is added to the Civil Code, to read:

1821.23 (a) The defendant may except to the plaintiff's sureties not later than 10 days after levy of the writ of possession by filing with the court in which the action was brought a Notice of Exception to Sureties and mailing a copy of the notice to the levying officer and to the plaintiff. An affidavit stating that such copies have been mailed shall be filed with the court at the time the notice is filed.

(b) The plaintiff may except to the defendant's sureties not later than 10 days after the defendant's undertaking is filed by filing with the court in which the action was brought a Notice of Exception to Sureties and mailing a copy of the notice to the levying officer and to the defendant at the address set out in his undertaking. An affidavit stating that such copies have been mailed shall be filed with the court at the time the notice is filed.

(c) If the plaintiff or the defendant does not except to the sureties of the other as provided in this section, he waives all objection to them.

(d) When excepted to, the sureties shall justify in the manner provided in Chapter 7 (commencing with Section 830) before the court in which the action was brought at a time specified by the excepting party.

(e) If the plaintiff's sureties, or others in their place, fail to justify at the time and place appointed or do not qualify, the court shall vacate the temporary restraining order or preliminary injunction, if any, and the writ of possession and, if levy has occurred, order the levying officer or the plaintiff to return the property to the defendant If the plaintiff's sureties do qualify, the court shall order the levying officer to deliver the property to the plaintiff.

(f) If the defendant's sureties, or others in their place, fail to justify at the time and place appointed or do not qualify, the court shall order the levying officer to deliver the property to the plaintiff, or, if the plaintiff has previously been given possession of the property, he shall retain such possession. If the defendant's sureties do qualify, the court shall order the levying officer or the plaintiff to deliver the property to the defendant.

SEC. 21 Section 1861 24 is added to the Civil Code, to read:

1861 24. Unless the judgment is paid within 30 days from the date it becomes final, the plaintiff may sell the baggage and property at public auction to the highest bidder, after giving notice of the sale by publication The notice shall contain the name of the debtor, the amount due, a brief description of the property to be sold, and the time and place of sale in the manner required by Section 6061 of the Government Code in the county in which the premises are situated. A copy of the notice shall be mailed, at least 15 days prior to the date of sale, to the tenant or guest at his or her residence or other known address, and if not known, to the tenant or guest at the place where the premises are situated. After satisfying the lien out of the proceeds of the sale, together with any reasonable costs that may have been incurred in enforcing the lien, the balance of the proceeds of the sale, if any, which have not been claimed by the tenant or guest shall,

within 30 days from the date of the sale, be paid into the treasury of the county in which the sale took place. If that balance is not claimed by the owner thereof, or his legal representative, within one year thereafter, by making application to the treasurer or other official designated by the county, it shall be paid into the general fund of the county. Any sale conducted pursuant to this section shall be a bar to any action against the plaintiff for the recovery of the baggage or property, or of the value thereof, or for any damages arising out of the failure of the tenant or guest to receive the baggage or property.

SEC. 22. Section 1861.27 is added to the Civil Code, to read:

1861.27. The facts stated in each affidavit filed pursuant to this article shall be set forth with particularity. Except where matters are specifically permitted by this article to be shown by information and belief, each affidavit shall show affirmatively that the affiant, if sworn as a witness, can testify competently to the facts stated therein. The affiant may be any person, whether or not a party to this action, who has knowledge of the facts. A verified complaint that satisfies the requirements of this section may be used in lieu of, or in addition to, an ordinary affidavit.

SEC. 23. Section 1861.28 is added to the Civil Code, to read:

1861.28. The judicial duties to be performed under this article are "subordinate judicial duties" within the meaning of Section 22 of Article VI of the California Constitution, and may be performed by appointed officers such as court commissioners.

CHAPTER 965

An act to add Section 1367.3 to the Health and Safety Code, and to add Sections 10123.5 and 11512.17 to the Insurance Code, relating to comprehensive preventive care of children.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 1367.3 is added to the Health and Safety Code, to read:

1367.3. On and after January 1, 1980, every health care service plan that covers hospital, medical, or surgical expenses on a group basis shall offer benefits for the comprehensive preventive care of children. Every plan shall communicate the availability of such benefits to all group contract holders and to all prospective group contract holders with whom they are negotiating. This section shall apply to a plan which, by rule or order of the commissioner, has been exempted from the provisions of subdivision (i) of Section 1367, insofar as such section and the rules thereunder relate to the provision of the preventative health care services described herein

SEC 2. Section 10123.5 is added to the Insurance Code, to read.

10123.5. On or after January 1, 1980, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer benefits for the comprehensive preventive care

of children 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 benefits to all group policyholders and to all prospective group policyholders with whom they are negotiating.

SEC. 3. Section 11512.17 is added to the Insurance Code, to read:

11512.17. On and after January 1, 1980, every nonprofit hospital service plan that covers hospital, medical or surgical expenses on a group basis shall offer benefits for the comprehensive preventive care of children. Every plan shall communicate the availability of such benefits to all group contract holders, and to all prospective group contract holders with whom they are negotiating.

CHAPTER 966

An act to amend Section 4021 of the Penal Code, relating to jailers.

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 4021 of the Penal Code is amended to read:

4021 (a) Whenever any female prisoner or prisoners are confined in any county jail in the state, and no regular jail female deputy sheriff has been appointed, there shall be designated by the sheriff some suitable woman who shall have immediate care of such female prisoner or prisoners, and who shall be paid out of the general fund of the county upon claims to be presented and allowed by the board of supervisors as other claims against the county.

(b) It shall be unlawful for any officer, station officer, or jailer to search the person of any prisoner of the opposite sex, or to enter into the room or cell occupied by any prisoner of the opposite sex, except in the company of a deputy sheriff of the same sex as the prisoner. Except as provided herein, the provisions of this subdivision shall not be applied to discriminate against any officer, station officer, or jailer by prohibiting appointment or work assignment on the basis of the sex of such officer or jailer

As used in this subdivision "station officer" means an unarmed civilian employee who assists a peace officer in the processing of persons who have been arrested and who performs duties including, but not limited to, booking and fingerprinting and maintaining custody and control of persons who have been arrested.

CHAPTER 967

An act to add Section 41708 to the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. Section 41708 is added to the Health and Safety Code, to read:

41708 Any district may adopt a rule or regulation for the control of volatile organic compound emissions from cutback asphalt paving material based on local considerations, including, but not limited to, the degree of air pollution resulting from such paving material, the economic impact of the rule and regulation, and the feasibility of implementing the rule and regulation.

The state board shall not override or otherwise amend any action taken by a district relating to the use of cutback asphalts.

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 air pollution control districts may adopt rules and regulations on the control of volatile organic compound emissions from cutback asphalt paving materials which will not cause substantial fiscal and operational hardships to local governments' road maintenance programs, it is necessary that this act take effect immediately.

CHAPTER 968

An act to amend Section 120.1 of the Code of Civil Procedure, relating to small claims court, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 22, 1979 Filed with Secretary of State September 22, 1979]

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

SECTION 1. 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; provided, that any court which participated in such experimental procedures may, at the discretion of the presiding judge, continue or reinstitute all or any portion of the procedures set forth in Article 4 (commencing with Section 121) to terminate on or before June 30, 1980.

(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 119.9. 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. 2. The sum of fifty two thousand six hundred seventy dollars ($52,670) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies to reimburse such agencies for costs incurred by them on and after the effective date of this act pursuant to the local option provisions 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 effect immediately The facts constituting such necessity are

In order to implement the provisions of this act with as little disruption as possible to the experimental programs involved, it is necessary that this act take effect immediately