
APPENDIX

**COUNTY, CITY, AND CITY AND COUNTY CHARTERS
AND CHARTER AMENDMENTS**

**as transmitted by the Secretary of State for inclusion in the official statutes in
accordance with Section 3, Article XI, of the California Constitution as amended
by vote of electors on November 5, 1974.**

CHARTER AMENDMENTS—1980

Charter Chapter Number	City—County	Date of Election	Date of Filing
1	City of Los Angeles	Feb. 5, 1980	Feb. 22, 1980
2	City of Albany	Nov. 6, 1979	Feb. 29, 1980
3	City of Piedmont	Feb. 26, 1980	March 12, 1980
4	City of Placentia	Apr. 8, 1980	April 21, 1980
5	City of Redwood City	Apr. 8, 1980	April 25, 1980
6	City of Roseville	Apr. 8, 1980	April 29, 1980
7	City of Downey	Apr. 8, 1980	May 27, 1980
8	City of Newport Beach	Apr. 8, 1980	June 30, 1980
9	City of Richmond	June 3, 1980	July 3, 1980
10	City of Santa Barbara	June 3, 1980	July 7, 1980
11	City & County of San Francisco	June 3, 1980	July 11, 1980
12	County of Fresno	June 3, 1980	July 11, 1980
13	City of Fresno	June 3, 1980	July 16, 1980
14	City of San Diego	June 3, 1980	July 16, 1980
15	City of Inglewood	June 3, 1980	July 21, 1980
16	City of Mountain View	June 3, 1980	July 24, 1980
17	City of Santa Ana	June 3, 1980	Aug. 27, 1980
18	City & County of San Francisco	Aug. 19, 1980	Sep. 10, 1980
19	City of Pasadena	June 3, 1980	Oct. 10, 1980
20	City of Alameda	June 3, 1980	Oct. 15, 1980
21	City of Oakland	June 3, 1980	Oct. 27, 1980
22	City of Modesto	Nov. 4, 1980	Nov. 20, 1980
23	City of Stockton	Nov. 4, 1980	Dec. 3, 1980
24	City of Los Angeles	Nov. 4, 1980	Dec. 8, 1980
25	City of Richmond	Nov. 4, 1980	Dec. 10, 1980
26	City of Long Beach	Nov. 4, 1980	Dec. 12, 1980
27	City of Vallejo	Nov. 4, 1980	Dec. 12, 1980
28	City & County of San Francisco	Nov. 4, 1980	Dec. 12, 1980
29	City of Santa Cruz	Nov. 4, 1980	Dec. 15, 1980
30	County of Santa Clara	Nov. 4, 1980	Dec. 22, 1980
31	City of San Jose	Nov. 4, 1980	Dec. 23, 1980
32	City of San Mateo	Nov. 4, 1980	Dec. 23, 1980
33	County of Placer	Nov. 4, 1980	Dec. 23, 1980
34	City of Sacramento	Nov. 4, 1980	Dec. 24, 1980
35	City of Pasadena	Nov. 4, 1980	Dec. 29, 1980
36	City of Santa Clara	Nov. 4, 1980	Dec. 29, 1980
37	City of San Diego	Nov. 4, 1980	Dec. 31, 1980
38	County of San Diego	Nov. 4, 1980	Dec. 31, 1980

Charter Chapter 1—City of Los Angeles

Amendments to the Charter of the City of Los Angeles

[Filed with the Secretary of State February 22, 1980]

Section 319.2 is added to the Charter to read as follows:

Sec. 319.2. Notwithstanding the provisions of Section 319, the maximum number of blanks for signatures which may be contained on nominating petitions for candidates for the offices of Member of the Board of Education, and the maximum number of signatures which may be appended to such petitions filed with the City Clerk, shall be as specified in the City Election Code.

Section 319.1 is added to the Charter to read as follows:

Sec. 319.1. Notwithstanding the provisions of Section 319, the maximum number of blanks for signatures which may be contained on nominating petitions for candidates for the offices of Mayor, City Attorney, Controller and Member of the City Council, and the maximum number of signatures which may be appended to such petitions filed with the City Clerk, shall be as specified in the City Election Code.

The twenty-first unnumbered paragraph of Section 111 of the Charter of the City of Los Angeles is hereby amended to read:

Any of the following may be exempted from the provisions of this article upon the request of the head of the department, division or office in which they are employed, by order of the Board of Civil Service Commissioners, approved by the Council by resolution, to wit: (a) persons employed as the first and second deputies where not exempt as above provided; (b) positions of unskilled laborers, including drivers; (c) positions the occupants of which are workmen, mechanics or craftsmen (including foremen) employed exclusively as such on the construction of public works, improvements or buildings; (d) any position requiring the services of one individual for not more than half time and paying a salary not to exceed three-fourths of the monthly rate established by the salary fixing authority of such department, division or office for entering level clerical positions; (e) grant funded positions the term of which does not exceed two years but which, by application of the procedures described in this paragraph, may be extended for one additional year for a maximum exemption period of three years. Any exemption made under the provisions of this paragraph may be terminated at any time by resolution of the Board of Civil Service Commissioners.

Section 111 of the Charter of the City of Los Angeles is hereby amended by adding the following unnumbered paragraph immediately following the fourteenth unnumbered paragraph of said section:

School Crossing Guards.

Certified to be a true copy by John Ferraro, President, City Council and Rex E. Layton, City Clerk.

Date of General Election: February 5, 1980.

Charter Chapter 2—City of Albany

Amendment to the Charter of the City of Albany

[Filed with the Secretary of State February 29, 1980]

Section 50(e) of the Charter is amended to read as follows:

“No person shall be retired, as provided in sections (d) and (dd) of this section 50, or receive any benefit from said fund, unless there shall be filed with said Board certificates of his or her disability, which certificates shall be subscribed and sworn to by two regularly licensed practicing physicians in the State of California, and such Board may require other evidence of disability before ordering such retirement and payment as aforesaid.”

Certified to be a true copy by Robert E. Luona, Mayor and Jacqueline Bucholz, City Clerk

Date of Special Municipal Election: November 6, 1979.

Charter Chapter 3—City of Piedmont

Revised City Charter

[Filed with the Secretary of State March 12, 1980]

The Charter of the City of Piedmont

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ARTICLE I POWERS OF THE CITY

Section 1.01: Name

The municipal corporation now existing and known as the City of Piedmont shall remain and continue to be an entity as at present.

Section 1.02: Boundaries

The boundaries of the City shall be the same as now established, with power and authority to change the same as provided by law.

Section 1.03: Powers of the City

The City shall have all powers possible for a city to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this Article.

Section 1.04: Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any other public or private agency.

ARTICLE II CITY COUNCIL

Section 2.01: Composition, Eligibility, and Election

A.) Composition: There shall be a City Council of five (5) members elected at large by the qualified voters of the City.

B.) Eligibility: Only qualified voters of the City shall be eligible to hold the office of Councilmember.

C.) Holding Other Offices: Except where authorized by law, no Councilmember shall hold any other office or employment with the City.

D.) Election: The regular election of Councilmembers shall be held on the last Tuesday of February in each even-numbered year, in the manner provided by State law. The terms of elected Councilmembers shall begin the second Monday after their election. They shall hold office for four (4) years. Elections shall be alternately for two (2) and (3) Councilmembers, excluding elections to fill an unexpired term of office.

Section 2.02: Compensation

The members of the City Council shall not receive any compensation for their service to the City. Councilmembers may receive actual and necessary expenses incurred in the performance of their duties of office as determined by the Council.

Section 2.03: Term of Office

No person who has served two (2) full consecutive terms as a Councilmember shall thereafter be eligible to hold such office until one full intervening term of four (4) years has elapsed. For the purposes hereof, any person who serves as a Councilmember for more than eighteen (18) months of an unexpired term shall be considered to have served a full term.

Section 2.04: General Powers and Duties

All powers of the City shall be vested in the City Council as the legislative body, except as otherwise provided by law or this Charter. The Council shall provide for the exercise of these powers and for the performance of all duties and obligations imposed on the City by law.

Section 2.05: Vacancies; Forfeiture of Office; Filling of Vacancies

A.) Vacancies: The office of a Councilmember shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

B.) Forfeiture of Office: A Councilmember shall forfeit office if the member:

- 1.) lacks at any time during the term of office any qualification for the office prescribed by this Charter or by State law;
- 2.) violates any prohibition of this Charter; or
- 3.) is convicted of a crime involving moral turpitude.

C.) Filling of Vacancies: A vacancy on the City Council shall be filled by appointment by the Council, with said appointee to hold office until the next general municipal election, when a successor shall be chosen by the electors for the unexpired term. If the Council does not fill such vacancy within thirty (30) days after the same occurs, then such vacancy shall be filled by the Mayor.

Notwithstanding the requirement of this Charter that a quorum of the Council consists of three members, if at any time the membership of the Council is reduced to two, the remaining members shall appoint one additional member to raise the membership to three (3), and then call a special municipal election to fill all vacancies, including the vacancy to which an appointment has just been made. If at any time there are four (4) or more vacancies, the City Clerk shall call a special election at once to fill the vacancies for the unexpired terms, with said election being conducted in accordance with the rules for a general municipal election.

Section 2.06: Judge of Qualifications

The City Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of office, and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

Section 2.07: Council Meetings

A.) Meetings: The City Council shall meet regularly at least twice in every month at such times and places as the Council may prescribe by ordinance or resolution. Special meetings may be held on the call of the Mayor or of three (3) or more members and, whenever practicable, upon no less than twenty-four (24) hours' notice to each member. All meetings shall be public except as otherwise provided by law.

B.) Rules and Minutes: The Council shall determine its own rules and order of business and shall provide for keeping minutes of its proceedings. These minutes shall be a permanent public record.

C.) Voting: Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the minutes. Three (3) members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner prescribed by the rules of the Council. No action of the Council, except as otherwise provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

Section 2.08: Mayor

Following each general municipal election, the City Council shall elect from among its members officers of the City who shall have the titles of Mayor and Vice-Mayor, each of whom shall serve at the pleasure of the Council. The Mayor shall preside at meetings of the Council, shall be recognized as head of the City government for all ceremonial purposes and by the Governor for the purposes of military law, but shall have no administrative duties. The Vice-Mayor shall act as Mayor during the absence or disability of the Mayor. In case of the temporary absence or disability of both the Mayor and the Vice-Mayor, the Council shall select one of its members to serve as Mayor Pro Tempore.

Section 2.09: Investigations

The City Council may make investigations into the affairs of the City and the conduct of any City department, office or agency, and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

Section 2.10: Administrative Relations

Except for the purpose of inquiries and investigations, Councilmembers shall deal with City officers and employees who are subject to the direction and supervision of the City Administrator through the City Administrator.

Section 2.11: Action Requiring an Ordinance

In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

- 1.) adopt or amend an administrative code, or combine or abolish any City department, office, record or commission;
- 2.) provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- 3.) levy taxes, except as otherwise provided in this Charter with respect to the property tax levied by adoption of the budget;
- 4.) grant, renew or extend a franchise;
- 5.) authorize the borrowing of money;
- 6.) convey or lease or authorize the conveyance or lease of any lands of the City;
- 7.) adopt, with or without amendment, ordinances proposed under the initiative power; and
- 8.) amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter, with respect to repeal of ordinances reconsidered under the referendum power.

Acts other than those referred to in this section may be done either by ordinance or by resolution of the City Council. Notwithstanding any other provisions of this section, if an ordinance authorizes the Council to establish rules and regulations on matters set forth in such ordinance, those rules and regulations adopted by resolution shall be valid and shall be subject to fine or penalty if the enabling ordinance so provides.

Section 2.12: Ordinances in General

A.) Form: Every proposed ordinance shall be introduced in writing, and the subject of the ordinance shall be clearly expressed in its title. The enacting clause shall be, "The City of Piedmont hereby ordains . . .". Any proposed ordinance which repeals or amends an existing ordinance or part of the City Code shall distinctly set out the City Code sections or subsections to be repealed or amended, and those existing provisions shall be posted with said ordinance.

B.) Procedure: An ordinance may be introduced by any Councilmember at any regular or special meeting of the City Council. Upon the first reading of any ordinance, the City Clerk shall distribute a copy to each Councilmember and to the City Administrator, shall make available a reasonable number of copies in the office of the City Clerk, and shall post the ordinance together with a notice setting out the time and place for a final reading by the Council. The adoption shall follow the first reading by at least five (5) days. A proposed ordinance may be amended or modified between the time of its first reading and the time of its final adoption, providing its general scope and original purpose are retained. As soon as practicable after adoption of any ordinance, the City Clerk shall post the final ordinance before its effective date. All ordinances shall be attested by the City Clerk or his/her designee.

C.) Effective Date: Except as otherwise provided in this Charter or by State law, every adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.

D.) "Posting" Defined: As used in this section, the term "posting"

means to post the ordinance on the official City Bulletin Board.

Section 2.13: Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes; grant, renew or extend a franchise; or authorize the borrowing of money in excess of twenty-five (25) percent of the tax receipts from the previous fiscal year. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) Councilmembers shall be required for adoption. After its adoption, the ordinance shall be posted as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except an emergency appropriation, shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.14: Codes of Technical Regulations

The City Council may adopt any standard code of technical regulations by reference thereto in an adoption ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that:

- 1.) One copy of each adopted code of technical regulations as well as of the adopting ordinances shall be authenticated and recorded by the City Clerk pursuant to this Charter.
- 2.) Copies of any adopted code of technical regulations shall be made available at the office of the City Clerk for free public reference, and made available for purchase by the public at a reasonable price fixed by the Council.

Section 2.15: Authentication and Recording; Codification; Printing

A.) **Authentication and Recording:** The City Clerk shall, when necessary, authenticate by signature all ordinances and resolutions adopted by the City Council and shall record them in full in an indexed book kept for this purpose.

B.) **Codification:** Within a time to be determined by the Council, a general codification of all City ordinances and resolutions having the force and effect of law shall be prepared and periodically revised. The general codification shall be printed, together with this Charter and any amendments thereto, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Piedmont City Code. Copies of the code shall be furnished to City officers, placed in the City Clerk's office for free public reference, and made available for purchase by the public at a reasonable

price fixed by the Council.

C.) **Printing of Ordinances and Resolutions:** The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. All ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein.

ARTICLE III ADMINISTRATION

Section 3.01: Officers and Employees

The administrative officers of the City of Piedmont shall consist of a City Administrator, a City Clerk, a City Attorney, a Director of Finance, a Chief of Police, a Fire Chief, a Director of Public Works, a City Engineer, a Planning Director, a Director of Parks and Recreation and such other subordinate officers, assistants, deputies and employees as the City Council may deem necessary to provide by ordinance or resolution. All officers shall be appointed and directed by the Council, and shall hold office at the pleasure of the Council.

The Council may by resolution reorganize, or by ordinance combine or consolidate or abolish any two or more offices or functions and require the duties of the same to be performed by one officer or department. The Council shall have the right of providing for such officers, departments and their functions in whole or in part through contract agreements.

The Council may transfer or consolidate functions of the City government to or with appropriate functions of State or County government, or any other public or private agency, or make use of such functions of said entities. In such case, the provisions of this Charter providing for the function of the City government so transferred or consolidated shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed in like manner.

Section 3.02: Official Bonds

The City Council shall determine which officers shall give bonds for the faithful performance of their official duties and fix the amount of said bonds. Such officers, before entering upon their official duties, shall execute a bond to the City in the sum legally required, which bond shall include any other offices they hold. The bonds shall be approved by the Council, paid for by the City and filed with the City Clerk; except that the bonds of the City Administrator and the City Clerk shall be filed with the City Attorney.

Section 3.03: City Administrator

The City Council shall appoint a City Administrator for an indefinite term and fix his/her compensation. The Administrator shall be appointed on the basis of executive and administrative qualifications.

The City Administrator shall be the chief administrative officer of the

City and shall be responsible to the Council for the administration of all City affairs placed in his/her charge by or under this Charter.

The Administrator shall have the following powers and duties:

1.) Shall appoint, discipline, and, when deemed necessary for the good of the City, suspend or remove City employees except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter.

2.) Shall supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law and except further that the internal administration of each department shall remain with each department head.

3.) Shall attend Council meetings and shall have the right to take part in discussion, but may not vote.

4.) Shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him/her or by officers subject to his/her supervision, are faithfully executed.

5.) Shall prepare and submit the annual budget to the Council and shall supervise its administration after its adoption.

6.) Shall submit to the Council and make available to the public a report on the finances of the City each fiscal year.

7.) Shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies.

8.) Shall keep the Council fully advised as to the financial condition and future needs of the City and make recommendations to the Council concerning the affairs of the City.

9.) Shall administer the personnel system of the City and, in particular, those matters involving the City's personnel classification system and employee benefit and retirement plans.

10.) Shall maintain a system of City records.

11.) Shall perform such other duties as are specified in this Charter or may be required by the Council.

Section 3.04: Acting City Administrator

By letter filed with the City Clerk, the Administrator shall designate a qualified City administrative officer to exercise the powers and perform the duties of Administrator during temporary absence or disability. The City Council may by majority vote revoke such designation at any time and appoint another officer of the City to serve until the Administrator shall return or the disability shall cease.

Section 3.05: City Clerk

The City Council shall appoint an officer of the City who shall have the title City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, keep the minutes of its proceedings and perform such other duties as are assigned by this Charter or by the Council.

Section 3.06: City Attorney

The City Council shall appoint a City Attorney. That person shall be an attorney-at-law licensed as such under the laws of the State of California, and continue to be so licensed during the time of holding office, and shall have been engaged in the practice of law for at least five (5) years prior

to appointment. The City Attorney shall, directly or through deputies, have power and be required to:

1.) represent and advise the Council and all City officers in all matters of law pertaining to their offices;

2.) represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, including the prosecution of violations of this Charter and ordinances enacted by the Council, and represent and appear for any City officer or employee, or former City officer or employee, in any or all actions and proceedings in which any such officer or employee is concerned or is a party for any act arising out of his/her employment or by reason of official capacity, provided the interest of the City in such action or proceeding is not adversely affected;

3.) attend all regular meetings of the Council and give advice or opinion in writing whenever requested to do so by the Council, by the City Administrator or by any of the boards or commissions of the City, subject to the approval of the Council or the City Administrator;

4.) approve the form of all contracts made by and all bonds given to the City, endorsing approval thereon in writing;

5.) prepare ordinances or resolutions for the City and amendments thereto.

6.) transfer forthwith to the appointed successor all books, papers, files and documents pertaining to the City, which he/she has in their control.

The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

Section 3.07: Department of Finance

There shall be a Department of Finance headed by a Director of Finance who will have charge of the administration of the financial affairs of the City, and may be empowered to act as assessor, tax collector and/or treasurer for the City, and perform such other duties as may be assigned by the City Council. The Department shall be responsible for the collection of all taxes, assessments, license fees and other revenues of the City for whose collection the City is responsible, and shall receive all taxes or other money receivable by the City from the County, State or Federal Governments, or from any office or department of the City.

Section 3.08: Police Department

There shall be a Police Department headed by a Chief of Police. This Department shall have charge of the law enforcement function of the City, and such other public safety activities as assigned by the City Council, with the duty of preserving the public peace and upholding the laws of the City and of the State of California. For the enforcement of said laws, the Chief shall have all the powers that are now or may hereafter be conferred upon sheriffs and other peace officers by the laws of the State. Every citizen shall lend aid to the police when requested for the arrest of offenders, the maintenance of public order, or the protection of life and property.

Section 3.09: Fire Department

There shall be a Fire Department headed by a Fire Chief. This Department shall have charge of the prevention and extinguishing of fires and

such other public safety activities as assigned by the City Council. The Chief shall also direct the Department in protecting life and property in other natural and/or man-made disasters. Every citizen shall lend aid to the Fire Department when requested for the protection of life and property.

Section 3.10: Department of Public Works

There shall be a Department of Public Works headed by a Director of Public Works. This Department shall have charge of the maintenance and repair of all City streets, sewers and storm sewers, and any other related activities as assigned by the City Council.

Section 3.11: City Engineer

There shall be a City Engineer who shall have supervision over all matters of an engineering character as required by State law, or as assigned by the City Council. At the time of appointment, this officer shall have been a practicing Civil Engineer for a period of at least five (5) years, and licensed in the State of California.

Section 3.12: Planning Director

There shall be a Planning Director who shall be responsible for administering the City's continuing planning activities as assigned by the City Council, including, but not limited to maintenance of the general plan, overseeing the zoning system and building regulations and codes.

Section 3.13: Department of Parks and Recreation

There shall be a Department of Parks and Recreation headed by a Director of Parks and Recreation. This Department shall have charge of the maintenance of the City's park lands and recreation facilities, as well as the organization and administration of the City's public recreation programs and such other related activities as assigned by the City Council. The Director shall administer the operations and programs of the Department, and shall carry out policies established by the Council for the use of the City's park lands and recreation facilities.

ARTICLE IV

FISCAL MANAGEMENT

Section 4.01: Fiscal Year

The fiscal year of the City shall begin on the first day of July and end on the thirtieth day of June of the following year.

Section 4.02: Submission of Budget

On or before the fifteenth day of May of each year, the City Administrator shall submit to the City Council a budget for the ensuing fiscal year.

Section 4.03: The Budget

The City Administrator shall submit the budget both in fiscal terms and in terms of the City's programs. The Administrator shall outline the proposed financial policies of the City for the fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures and revenues, together with reasons for such changes; summarize the City's debt position; and include such other material as the Administrator deems desirable or as the City Council designates.

The budget shall provide a complete financial plan of all City funds and

activities for the ensuing fiscal year. In organizing the budget, the City Administrator shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the fiscal year; and shall be so arranged as to show comparative figures for income and expenditures of the current fiscal year and the preceding fiscal year. It shall indicate in separate sections:

1.) the proposed expenditures for current operations during the ensuing fiscal year, detailed by department in terms of their respective programs, and the method of financing such expenditures; and

2.) the proposed capital expenditures during the ensuing fiscal year, detailed by department, and the proposed method of financing each such capital expenditure.

The Council shall establish a fund known as the "Reserve Fund" in an amount not to exceed ten (10) percent of the budget, for the purpose of meeting unforeseen contingencies and emergencies of the City.

The total of proposed expenditures plus the reserve fund shall not exceed the total of estimated income.

Section 4.04: Action on Budget

A.) Notice and Hearing: The City Council shall publish in one or more newspapers of general circulation in the City a notice stating:

1.) the times and places where copies of the budget are available for inspection by the public; and

2.) the time and place, not less than ten (10) days nor more than thirty (30) days after such publications, for a public hearing on the budget.

B.) Amendment Before Adoption: After the public hearing, the Council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total estimated income.

C.) Adoption: The Council shall adopt the budget on or before the thirtieth day of June of the fiscal year currently ending. If the Council fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-by-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriation of the amounts specified therein for expenditure from the funds indicated.

D.) Public Record: The budget shall be printed and made available for public review.

Section 4.05: Amendments After Adoption

The Council may during the course of the fiscal year amend the budget by reducing or increasing appropriations, transferring appropriations, and authorizing supplemental appropriations, and may authorize expenditures from the unappropriated reserve fund for the purpose of meeting

unforeseen contingencies and emergencies of the City from funds so approved, transferred, or added thereto by the Council.

Section 4.06: Lapse of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

Section 4.07: Tax System

Unless otherwise provided by ordinance, the City shall use, for the purpose of municipal property taxation, the County system of assessment and tax collection, as such system is now in effect or may hereafter be amended and insofar as such provisions are not in conflict with this Charter.

Section 4.08: Tax Rate Limitation

The City shall not levy a rate of taxation beyond that sufficient to raise the amounts required for the annual budget; and as otherwise provided in this Charter or by State law, less the amounts estimated to be received from fines, licenses and other sources of revenues.

Section 4.09: Independent Audit

The City Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants with no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm, annually or for a period not exceeding three (3) years. The designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of the fiscal year.

Section 4.10: Franchises

No person or corporation shall exercise any franchise right or privilege in the City except insofar as they may be entitled to do so by direct authority of the State Constitution, unless they shall have obtained grant therefor in accordance with the provisions of this Charter and in accordance with the procedure prescribed by ordinance.

A.) Terms, Conditions and Procedures: The City Council shall, by ordinance, prescribe the terms, conditions and procedure under which franchises will be granted, subject to the provisions of this Charter; provided, however, that such procedural ordinance or ordinances shall make provisions for the giving of public notice for franchise applications, for protests against the granting of such franchises and for public hearings on such applications.

The Council, in granting franchises, shall prescribe the terms and conditions of such franchises in accordance with the applicable provisions of this Charter and any ordinance adopted thereto, and may in such franchise impose such other and additional terms and conditions not in conflict with said Charter or ordinances, whether governmental or contractual in char-

acter, as in the judgment of said Council are in the public interest or as the people, by initiative, indicate they desire to have imposed.

B.) Method of Granting Franchise: The Council may grant a franchise without calling for bids or may, in its discretion, advertise for bids for the sale of a franchise upon a basis not in conflict with the provisions of this Charter.

C.) Term of Franchise: Every franchise shall be either a fixed term or for an indeterminate period. If for a fixed term, the franchise shall state the term for which it is granted; if indeterminate, it shall set forth the terms and conditions under which it may be terminated.

D.) Eminent Domain: No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing therein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public utility.

E.) Adequate Compensation: No new franchise or renewal of an existing franchise shall be granted without reserving to the City just and adequate compensation.

Section 4.11: Contract Work

All expenditures for public projects above the limit from time to time set by State law shall be contracted for and let to the lowest responsible bidder after notice. All contracts shall be drawn under the supervision of the City Attorney. All contracts must be in writing and executed in the name of the City by an officer or officers authorized to sign the same.

The City Council shall establish, by ordinance, the rules and regulations for the City's competitive bidding system. The Council may reject any and all bids, and may call for new bids. The Council, without advertising for bids, may provide for such work to be procured in the open market if it deems it more beneficial or economical to do so.

Section 4.12: Purchasing

A purchasing system shall be established for all City departments and offices. The City Council shall consider and adopt, rules and regulations governing the contracting for, purchasing, inspection, storing, distribution or disposal of all supplies, materials and equipment required by any department or office of the City.

Section 4.13: Temporary Loans

Money may be borrowed in anticipation of the receipts from taxes during any fiscal year, by the issue of notes, certificates of indebtedness or revenue bonds; but the aggregate amount of such loans at any time outstanding shall not exceed twenty-five (25) percent of the receipts from all taxes during the preceding fiscal year; and all such loans shall be paid out of the receipts from taxes for the fiscal year in which they are issued.

Section 4.14: Bonded Debt Limit

The City shall not incur an indebtedness evidenced by obligation bonds which shall in the aggregate exceed the sum of twenty (20) percent of total assessed valuation for purposes of City taxation, of all the real and personal property within the City, exclusive of any indebtedness that has been or may hereafter be incurred for the purposes of acquiring, con-

structing, extending or maintaining municipal utilities, for which purpose a further indebtedness may be incurred by the issuance of bonds, subject only to the provisions of the State Constitution and of this Charter.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of a majority of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution, other State laws and this Charter.

ARTICLE V PERSONNEL

Section 5.01: Personnel Classification

The administrative service of the City shall be divided into Unclassified and Classified Service:

A.) The Unclassified Service shall comprise the following officers and positions:

- 1.) all elective officers;
- 2.) the City Administrator, City Attorney, City Clerk, Personnel Officer, and the head of each department of the City;
- 3.) all members of boards and commissions;
- 4.) positions in any class or grade created for a special or temporary purpose for a period of not longer than six months;
- 5.) persons employed to render professional, scientific, technical or expert services of any occasional or exceptional character;
- 6.) part-time employees paid on an hourly or per diem basis.

B.) The Classified Service shall comprise all positions not specifically included by this section in the Unclassified Service.

Section 5.02: Appointments and Promotions

All appointments to and promotions within the Classified Service shall be based upon selection of the best qualified individual as determined by means of recognized personnel selection techniques. The City shall not discriminate against any employee or applicant for employment because of sex, race, creed, color or national or ethnic origin.

Section 5.03: Personnel Rules and Regulations

The City Council shall implement the personnel system provided by this Charter by adopting rules and regulations governing the administration thereof. Such personnel rules and regulations shall provide, among other things, for:

- 1.) the preparation, installation, revision, and maintenance of a position classification plan covering all positions in the Classified Service, including minimum standards and qualifications for each class; and
- 2.) the preparation, revision and administration of a plan of compensation directly correlated with the position classification plan, providing a range or maximum rate of pay for each class.

Section 5.04: Suspension, Demotion and Dismissal

An employee holding a position in the Classified Service may be suspended without pay, demoted, or removed from a position for malfeasance, misconduct, incompetency, inefficiency or for failure to perform the duties of the position or to observe the established rules and regula-

tions in relation thereto, or to cooperate reasonably with superiors or fellow employees, but subject to the right to a hearing in the manner set forth by the City Council.

Any employee so suspended, demoted, or removed shall be given in writing the reasons for the suspension, demotion, or removal. Said employee shall be allowed a reasonable time for answering the same and may demand a public hearing upon the charges, with such hearing to be held in accordance with procedures established therefor. Hearings may be conducted informally, and the technical rules of evidence need not apply, but the employee whose suspension, demotion or removal is sought shall be heard in person, if he/she requests, be permitted to be represented by counsel and to produce testimony in his/her own behalf.

Section 5.05: Retirement System

The City Council shall have power to provide for the creation, establishment and maintenance of a retirement or pension plan or plans for any or all officers and employees of the City. The Pension System for members of the Police and Fire Departments as set forth in Section 47 of the Charter in effect on January 1, 1979, shall be incorporated in the City Code, and any amendment thereto shall not be effective unless approved by a majority of the voters voting thereon at a general or special election.

Section 5.06: Authority to Join Other Systems

The City of Piedmont, by and through its City Council, is hereby empowered to join in or continue as a contracting agency in any retirement or pension system or systems existing or hereafter created under the laws of the State of California, or the United States of America, to which municipalities and municipal officers and employees are eligible.

ARTICLE VI

BOARDS AND COMMISSIONS

Section 6.01: Creation of Boards and Commissions

The City Council may create by ordinance such operational, advisory, appellate or rule-making boards and commissions as may be required for the proper operation of any function or department of the City. In doing so, the Council shall prescribe their function, duties, powers, jurisdiction and the number of board and commission members.

Section 6.02: Membership, Term of Office

Members of boards and commissions shall be appointed by majority vote of the City Council to serve three-year (3-year) terms, and until their respective successors are appointed, with no person serving more than two consecutive terms of office. Members may be removed after a hearing by the affirmative vote of four (4) members of the Council. If a member of a board or commission is absent from three (3) consecutive regular meetings of such board or commission, unless by permission of such body expressed in its official meeting record or by permission of the Council, that office shall become vacant and shall be so declared by the Council. Vacancies shall be filled for any unexpired term in the same manner as the original appointments were made. Any person who serves as a member of a board or commission for more than eighteen (18) months of an unexpired term shall be considered to have served a full term of office.

Section 6.03: Compensation

The members of boards and commissions shall serve without compensation for their services to the City, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.

Section 6.04: Organization

Each year on a date set by their respective rules, each board and commission shall meet to organize by electing one of its members to serve as presiding officer at the pleasure of such body. Each board and commission established by the City Council shall hold meetings at such regular intervals as the proper transaction of business shall require or as established by ordinance. All meetings shall be public except as otherwise provided by law.

Section 6.05: Public Record

Minutes for each of such boards and commissions shall be kept as a record of its proceedings and transactions. Each board or commission shall prescribe its own rules and regulations which shall be consistent with this Charter and with City Council ordinances and resolutions, and copies of which shall be kept on file with the City Clerk.

ARTICLE VII PUBLIC SCHOOLS

Section 7.01: Governing Board

The Board of Education shall have control and management of the public schools in the Piedmont Unified School District in accordance with the Constitution and general laws of the State, and is hereby vested with all powers and charged with all the duties provided by this Charter and the general laws of the State for City Boards of Education.

Section 7.02: Membership, Term of Office

The Board of Education shall consist of five (5) members elected from the City at large for a term of four (4) years. Board members shall be elected at the times and in the same manner provided for members of the City Council and shall be required to meet the same eligibility qualifications. No person who has served two (2) full consecutive terms as a member of the Board of Education shall be eligible to hold office until one (1) full intervening term of four (4) years has elapsed. Any person who serves as a member of the Board for more than eighteen (18) months of an unexpired term shall be considered to have served a full term.

Section 7.03: Compensation

The members of the Board of Education shall not receive any compensation for their service to the School District. Board members may receive actual and necessary expenses incurred in the performance of their duties of office as determined by the Board.

Section 7.04: Vacancies

The same rules governing the creation of vacancies or causing forfeiture of office from the City Council shall also apply to the members of the Board of Education. A vacancy on the Board shall be filled by appointment of a majority vote of said Board, with the appointee holding office for the remainder of the unexpired term, or until the next general municipal

election. If a vacancy on the Board of Education continues for thirty (30) days, the vacancy shall be filled by the President of the Board of Education.

Section 7.05: Organization

The Board of Education shall annually, between July 1 and July 15, elect one of its own members to be president of the Board, and another to serve as vice-president. Either of these officers may be removed by the affirmative vote of four (4) members.

Section 7.06: Meetings

The Board of Education shall meet at such times and places as may be designated by resolution of said Board. Three (3) members of the Board shall constitute a quorum, except as otherwise provided by law, but a less number than three (3) at a scheduled meeting may adjourn and compel the attendance of absent members in such manner as the Board may prescribe. All meetings of the Board of Education shall be public, except as otherwise provided in the California Government and Education Codes. The Board shall determine the rules of its proceedings.

**ARTICLE VIII
ELECTIONS**

Section 8.01: General Municipal Elections

General municipal elections for the election of officers, and for such other purposes as the City Council may prescribe, shall be held in the City on the last Tuesday in February of each even numbered year.

Section 8.02: Special Municipal Elections

All other municipal elections that may be held by authority of this Charter, or of general law, or by ordinance, shall be known as special municipal elections.

Section 8.03: Procedure for Holding Elections

Unless otherwise provided by ordinances hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or may hereafter be amended, for the holding of elections in general law cities so far as the same are not in conflict with this Charter.

Section 8.04: Initiative, Referendum and Recall

There are hereby reserved to the electors of the City the powers of the initiative and referendum and recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

**ARTICLE IX
GENERAL PROVISIONS**

Section 9.01: General Plan

The City Council shall adopt, and may from time to time modify, a general plan setting forth policies to govern the development of the City. Such plan may cover the entire City and all of its functions and services

or may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services. The plan shall also serve as a guide to Council action concerning such City planning matters as land use, development regulations and capital improvements.

Section 9.02: Zoning System

The City of Piedmont is primarily a residential city, and the City Council shall have power to establish a zoning system within the City as may in its judgment be most beneficial. The Council may classify and reclassify the zones established, but no existing zones shall be reduced or enlarged with respect to size or area, and no zones shall be reclassified without submitting the question to a vote at a general or special election. No zone shall be reduced or enlarged and no zones reclassified unless a majority of the voters voting upon the same shall vote in favor thereof; provided that any property which is zoned for uses other than or in addition to a single-family dwelling may be voluntarily rezoned by the owners thereof filing a written document executed by all of the owners thereof under penalty of perjury stating that the only use on such property shall be a single-family dwelling, and such rezoning shall not require a vote of the electors as set forth above.

Section 9.03: Conflict of Interest

Subject to the provisions of State law, the City Council may adopt from time to time such ordinances, resolutions and regulations as the Council shall consider necessary and proper to prevent conflict of interest between the City and its officers, employees or members of boards, commissions or committees.

Section 9.04: General Laws Applicable

All general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances hereafter enacted, shall be applicable to the City. The City Council may adopt and enforce ordinances which, in relation to municipal affairs, shall control as against the general laws of the State.

Section 9.05: Separability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 9.06: Charter Enforcement

The provisions of the Charter shall be enforced, with violations punishable in the manner provided by State law and by City ordinance.

Section 9.07: Charter Amendment

Amendments to this Charter may be proposed by the City Council or by the initiative process, as prescribed by this Charter and by State law.

All proposed Charter amendments shall be presented to the qualified voters of the City at a general or special election. If a majority of said voters voting upon a proposed amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time

is therein fixed, thirty (30) days after its adoption by the voters.

Section 9.08: Effective Date

This Charter shall take effect on March 31, 1980, and upon its filing with the California Secretary of State.

Certified to be a true copy by Steve Eigenberg, Mayor and John D. Nolan, City Clerk.

Date of General Municipal Election: February 26, 1980.

Charter Chapter 4—City of Placentia

Amendments to the Charter of the City of Placentia

[Filed with the Secretary of State April 21, 1980]

Section 602 of the Charter is amended to read as follows:

SECTION 602. COMPENSATION. The Mayor and Members of the City Council shall receive one hundred fifty dollars (\$150.00) per month, as compensation for their services, and shall receive reimbursement for necessary travel and expenses when on official duty on order of the City Council.

Section 615 of the Charter is amended to read as follows:

SECTION 615. ADOPTION OF ORDINANCES AND RESOLUTIONS. With the sole exception of ordinances which take effect upon adoption, hereinafter referred to, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter, nor at any time other than at a regular or adjourned regular meeting. At the time of introduction or adoption, an ordinance or resolution shall be read in full, unless, after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmembers present. The reading of titles may be satisfied by printing the full title on the meeting agenda. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting, held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

The affirmative votes of at least three members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for the payment of money.

Emergency Ordinances. Any ordinance declared by the City Council to be necessary as an emergency measure for preserving the public peace, health or safety and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least four affirmative votes.

Section 617 of the Charter is amended to read as follows:

SECTION 617. ORDINANCE PUBLICATION. The City Clerk shall cause each ordinance to be published at least once in the official newspaper or pursuant to Section 609 of this Charter, within fifteen days after its adoption. The publication of ordinances, as required by this section, may be satisfied by the City Clerk publishing a summary of the ordinance and posting in the office of the City Clerk a certified copy of the full text of such ordinance along with the names of those Councilmembers voting for and against the ordinance, within fifteen (15) days after its adoption.

Section 702 of the Charter is amended to read as follows:

SECTION 702. COMPENSATION. The City Clerk shall receive seventy-five dollars (\$75.00) per month for his services, and the City Treasurer shall receive five dollars (\$5.00) per month compensation for his services; provided that they shall receive reimbursement for necessary travel and other expenses when on official duty on order of the City Council.

Certified to be a true copy by William E. Rashford, Mayor and Doris B. Black, City Clerk.

Date of General Municipal Election: April 8, 1980

Charter Chapter 5—City of Redwood City

Amendments to the Charter of the City of Redwood City

[Filed with the Secretary of State April 20, 1980]

Section 21 is amended to read as follows:

SECTION 21. OFFICERS AND BOARDS:

The administrative officers and boards shall be City Manager, City Clerk, Director of Public Works, Chief of Police, Chief of Fire Department, City Assessor, City Collector, City Treasurer, City Auditor, City Attorney and such other officers and boards or commissions as may be hereafter established.

The City Manager, City Attorney, City Auditor, City Treasurer, City Clerk, and City Assessor shall be appointed by the Council and the removal of any of them shall be only on the affirmative vote of five-sevenths ($\frac{5}{7}$ ths) of all members of the City Council.

All other officers and employees shall be appointed by the City Manager and shall hold office or position at his pleasure. The compensation of all officers and employees, excepting members of the Council, shall be provided by resolution of the Council.

Section 51 is amended to read as follows:

SECTION 51. BUDGET:

Upon a date established by resolution of the Council, the City Manager shall submit to the Council a proposed budget for all departments to be known as the general budget. Said budget shall include estimates of the

revenues and expenditures of the city departments for the ensuing year. These estimates shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the Manager. The classification of the estimates of expenditure shall be as nearly uniform as possible for all departments and shall give the following information:

- (a) A detailed estimate of the expense of conducting each department as submitted by the department.
- (b) Expenditures for corresponding items for the last two fiscal years.
- (c) Estimated expenditures and appropriations for corresponding items for the current fiscal year.
- (d) Such other information as is required by the Council or that the City Manager may deem advisable to submit.

Sufficient copies of such budget shall be prepared and submitted so that there may be copies on file in the City Clerk's office for inspection by the public, unless the Council publish the same in the official newspaper. The Council shall have the power to revise, correct or modify said proposed budget in any particular.

Section 51.5 is amended to read as follows:

SECTION 51.5. ADOPTION OF BUDGET:

At the meeting of the Council at which the budget is submitted, the Council shall set a time and place for a public hearing thereon, shall order copies thereof to be filed in the office of the City Clerk for inspection by the public and shall cause a notice to be published at least once in the official newspaper stating that copies of the budget are available for inspection at the City Clerk's office and stating the time and place at which the Council will hold the public hearing. At the time and place so advertised, or at such time and place to which such hearing may from time to time be adjourned, the Council shall hold a public hearing on the budget as submitted. After the conclusion of such public hearing, the Council may insert new items, delete items or may increase or decrease the amount of moneys set forth for the various items included therein.

A copy of the budget as amended by the Council shall be certified by the City Clerk and the City Manager and shall be filed in the office of the City Clerk. The budget shall be finally adopted by ordinance upon a date established by resolution of the Council. Such ordinance shall adopt the budget by reference to the certified copy thereof, as amended, on file in the office of the City Clerk, and such ordinance shall be effective immediately upon final adoption thereof. From and after the effective date of the ordinance adopting the budget, the several amounts stated in the budget as proposed expenditures shall become and thereafter be appropriated to the offices, departments, objects, and purposes therein stated for the fiscal year to which the budget is intended to apply.

From time to time during the fiscal year, the Council may transfer sums from any appropriated item to any other appropriated item by resolution. Additional appropriations shall be accomplished in the manner provided for in Section 15 of the Charter. No appropriation shall be cancelled in whole or in part except by ordinance adopted by the affirmative vote of five-sevenths ($\frac{5}{7}$ ths) of all members of the Council.

Certified to be a true copy by Mario Biagi, Mayor and Jacqueline C. Hilderbrand, City Clerk.

Date of General Municipal Election: April 8, 1980

Charter Chapter 6—City of Roseville

Amendment to the Charter of the City of Roseville

[Filed with the Secretary of State April 29, 1980]

Section 2.03 of Article II of the Charter is amended to read as follows:

Sec. 2.03. Assumption of office by, meeting of Council, and seating of mayor and mayor pro tempore.

The council shall assume office, subject to the qualifying provisions of this charter, from and after twelve o'clock noon on the Monday next succeeding the day of their election. The council shall hold its first meeting at that time and the councilmembers who received the highest and second highest number of votes in the latest election shall be seated as mayor and mayor pro tempore, respectively, and their terms of office shall commence upon their assumption of office and continue until the election, qualification and assumption of office of their successors following the next general municipal election.

Certified to be a true copy by Harry Crabb, Jr., Mayor and Pauline Brockman, City Clerk.

Date of the General Municipal Election: April 8, 1980

Charter Chapter 7—City of Downey

Amendment to the Charter of the City of Downey

[Filed with the Secretary of State May 27, 1980]

Section 1300 of Article XIII of the Charter is amended to read as follows:

Section 1300. General Municipal Elections.

General Municipal Elections for the election of officers, except members of the Board of Education, and for such other purposes as the City Council may prescribe shall be held in the City on the same date and at the same time as the Statewide Direct Primary. The first such General Municipal Election shall be held in the year 1982.

Certified to be a true copy by Theodore H. Jackman, Mayor and Robert L. Shand, City Clerk.

Date of General Municipal Election: April 8, 1980

Charter Chapter 8—City of Newport Beach

Amendment to the Charter of the City of Newport Beach

[Filed with the Secretary of State June 30, 1980]

Sections 402A, 402B and 404 of Article IV, are amended to read as follows:

Section 402A. Compensation. The members of the City Council shall receive no compensation for their services as such.

Section 402B. Reimbursement for Expenses. The members of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling expenses when on official duty. In addition, each member shall receive the sum of Four Hundred Forty-One Dollars and Fifteen Cents (\$441.15) per month, adjusted annually in accordance with the U. S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, or Five Percent (5%), whichever amount is lesser, as reimbursement for other expenditures imposed upon him in serving as a City Councilman. Absence of a Councilman from all regular and special meetings of the Council during any calendar month shall render such Councilman ineligible to receive such sum for such calendar month.

Section 404. The Mayor, Mayor Pro Tempore. On the first Tuesday following any general or special municipal election at which any Councilman is elected, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor shall have a voice and vote in all its proceedings. He shall be the official head of the City for all ceremonial purposes. He shall have the primary but not exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and, as occasion requires, he may inform the people of any major change in policy or program. He shall perform such other duties consistent with his office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

In addition to the payment for expenses as a Councilman under Section 402B, the City Council may provide by resolution for the payment to the Mayor of an allowance of not exceeding Two Hundred Twenty Dollars and Fifty-Eight Cents (\$220.58) per month, adjusted annually in accordance with the U. S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, or Five Percent (5%), whichever amount is lesser, to reimburse him for the additional expenses incurred by him in serving as Mayor.

The City Council shall also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during his absence or disability.

Section 401 of Article IV, is amended to read as follows:

Section 401. Eligibility. No person shall be eligible to hold office as a member of the City Council unless he is, and shall have been for at least

thirty days immediately preceding his nomination or appointment, a registered elector of the district from which he is nominated or appointed, and for at least thirty days immediately preceding his election or appointment, a registered elector of the City.

Section 400 of Article IV, is amended to read as follows:

Section 400. Elective Officers. The elective officers of the City shall consist of a City Council of seven members. Candidates for City Council shall be nominated from and by the electors of each of the seven districts referred to in Article X of this Charter and one shall be elected from each of such districts by the voters of the City at large at the times and in the manner provided in this Charter. Ties in voting among candidates for office shall be settled by the casting of lots.

Alternatively, and successively, four four-year terms shall be filled at one general municipal election and three four-year terms at the next such election, consistent with the sequence of terms of Council members existing on the effective date of this amendment.

The term of office shall be four years. The term of each City Council member shall commence on January 1, following his or her election, and he or she shall serve until his or her successor qualifies.

Each Council Member in office at the time this Charter Amendment takes effect shall continue in office until December 31, following the end of term for which he or she was elected or appointed. Those Council Members elected in April of 1978 shall serve until December 31, 1982, and those Council Members elected in April of 1980 shall serve until December 31, 1984.

Section 1000 of Article X, is amended to read as follows:

Section 1000. General Municipal Elections. Commencing with the election of November 2, 1982, General Municipal elections for the election of officers and for such other purposes as the City Council may prescribe shall be held in the City on the first Tuesday after the First Monday of November in each even-numbered year, and consolidated with the State-wide general election in the manner provided by the California Elections Code.

Certified to be a true copy by Jacqueline E. Heather, Mayor and Doris George, City Clerk.

Date of General Municipal Election: April 8, 1980

Charter Chapter 9—City of Richmond

Amendment to the Charter of the City of Richmond

[Filed with the Secretary of State July 3, 1980]

Amending first sentence of Paragraph 5 of Section 3 of Article III to read as follows:

The City Council may, by resolution, change the date of any general election for City Councilmen to another date in order to consolidate said election with an election of any other public agency which is held within one month of the dates set forth in this Charter for municipal elections.

Amending Article V, Elections, to read as follows:

Sec. 1. All elections for Councilmen shall be held in accordance with the general laws of the state governing elections within municipalities unless otherwise provided by this charter or by ordinance of the Council.

Sec. 2. Petitions shall be filed in the office of the City Clerk for the nominations of Councilmen asking that the person named therein be a candidate for the office of Councilman and giving the residence of said person within the City of Richmond. A filing fee in the amount of two percent (2%) of the annual salary of the office to which nomination is sought shall be paid to the Clerk at the time of filing the petition for nomination.

Certified to be a true copy by Lonnie C. Washington, Jr., Mayor and Harlan J. Heydon, City Clerk.

Date of special election: June 3, 1980.

Charter Chapter 10—City of Santa Barbara

Amendment to the Charter of the City of Santa Barbara

[Filed with the Secretary of State July 7, 1980]

Section 1101 of the Charter is amended to read as follows.

Section 1101. Continuance of Present Pension System.

Nothing contained in this Article shall be deemed or construed to impair or detract from, in any manner whatsoever, the continued and full enjoyment of all vested rights, privileges and benefits and the continuance of all provisions of the pension System provided for in Article XV-A and other provisions of the immediately preceding Charter of the City as amended to the effective date of this Charter, as to all present and existing members and beneficiaries of said System as of the effective date of this Charter; provided, however, that no new or additional members shall thereafter be added to or included in said pension System.

Wherever in said pension System, reference is made to the "Board of Police and Fire Commissioners", the same shall be deemed to refer to the appointing power under this Charter. The Board of Fire and Police Pension Commissioners, established by said Charter as so amended shall continue to exist, function and operate and new members be appointed thereto until, and only until, such time as there shall no longer be any member or beneficiary of said System in existence, whereupon said pension System and said Board of Fire and Police Pension Commissioners shall terminate. In lieu of appointment of an active member of the Police Department and Fire Department as provided in Article XV-A, the May-

or, with consent of the City Council, may appoint a retired member of the Police Department and Fire Department.

Notwithstanding the provisions of said preceding Charter, the Board of Fire and Police Pension Commissioners may invest any funds placed under its jurisdiction for investment pursuant to said Article XV-A of said preceding Charter in any securities or assets in which the funds of the State Employees' Retirement System may lawfully be invested at the time of such investment, subject, however, to all conditions, limitations and requirements imposed by law upon the investment of such funds of the State Employees' Retirement System at such time.

Notwithstanding the provisions of said preceding Charter, the amount of the Service Retirement benefit (Section 3(a) and 3(b) of Article XV-A) shall be increased by \$100 per month on July 1, 1980. The City Council may, by ordinance, annually increase the amount of the Service Retirement if the City Council, based upon competent actuarial advice, determines that there are sufficient reserve funds in the Service Retirement Fund to discharge the liabilities of such increase.

Notwithstanding the provisions of said preceding Charter, the benefit paid each member retired because of disability, pursuant to Sections 5 and 6 of Article XV-A, shall be increased by \$100 per month on July 1, 1980. The City Council may, by ordinance, annually increase the amount of the benefit if the City Council determines funds are available and it is in the best interest of the City to do so.

Certified to be a true copy by David T. Shiffman, Mayor and Richard D. Thomas, City Clerk.

Date of Special Municipal Election: June 3, 1980.

Charter Chapter 11—City and County of San Francisco

Amendments to the Charter of the City and County of San Francisco

[Filed with the Secretary of State July 11, 1980]

Section 3.510 is amended to read as follows:

3.510. Governmental Services, Purchasing, Real Estate, Public Works, Electricity, Public Health, and County Agricultural Department; Health Advisory Board; Coroner's Office; and Convention Facilities Management.

The functions, activities and affairs of the city and county that are hereby placed under the direction of the chief administrative officer by the provisions of this charter, and the powers and duties of officers and employees charged with specific jurisdiction thereof, shall subject to the provisions of section 11.102 and section 3.501 of this charter, be allocated by the chief administrative officer, among the following departments:

Department of Governmental Services, which shall include the func-

tions and personnel of the offices of registrar of voters, recorder, public administrator and such other functions as may be assigned by the chief administrative officer, and shall be administered by the chief administrative officer.

The public administrator shall appoint and at his pleasure may remove an attorney. He may also appoint such assistant attorneys as may be provided by the budget and annual appropriation ordinance.

Purchasing Department, which shall include the functions and personnel of the bureau of supplies, the operation of central stores and warehouses, and the operation of central garages and shops, and shall be administered by the purchaser of supplies who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

Real Estate Department, which shall include the functions and personnel of the office of the right-of-way agent.

Department of Public Works, which shall include the functions and personnel of the telephone exchange and which shall be in charge of and administered by the director of public works, who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

The director of public works shall appoint a deputy director of public works for operations, an deputy director of public works for engineering, a deputy director of public works for financial management and administration, and an assistant to the director of public works, each of whom shall hold office at the pleasure of said director. The director of public works shall designate a deputy or other employee to perform the duties of city engineer. Said deputy or employee shall possess the same power in the city and county in making surveys, plats and certificates as is or may from time to time be given by law to city engineers and to county surveyors, and his official acts and all plats, surveys and certificates made by him shall have the same validity and be of the same force and effect as are or may be given by law to those of city engineers and county surveyors.

All examinations, plans and estimates required by the supervisors in connection with any public improvements, exclusive of those to be made by the public utilities commission, shall be made by the director of public works, and he shall, when requested to do so, furnish information and data for the use of the supervisors.

The department of public works shall semi-annually notify the tax collector of the amount of each assessment that becomes delinquent and the lot and block number against which such assessment is levied, and it shall be the duty of the tax collector to note such delinquency on each annual tax bill.

The department of public works shall have powers and duties relating to street traffic, subject to the laws relating thereto, as follows: (a) to cooperate with and assist the police department in the promotion of traffic safety education; (b) to receive, study and give prompt attention to complaints relating to street design or traffic devices or the absence thereof; (c) to collect, compile, analyze and interpret traffic and parking data and to analyze and interpret traffic accident information; (d) to engage in traffic research and traffic planning, and (e) to cooperate for the best performance of these functions with any department and agency of the

city and county and the state as may be necessary.

The department shall submit to the traffic bureau of the police department, for its review and recommendation, all proposed plans relating to street traffic control devices; provided, however, that the bureau may waive submission and review of plans of particular devices designated by it. Failure of the said traffic bureau to submit to the department its recommendation on any proposed plan within fifteen (15) days after receipt shall be considered an automatic approval of said traffic bureau. The department shall not, with respect to any traffic control devices, implement such plan until the recommendation of the traffic bureau has been reviewed or until the fifteen (15) day period has elapsed.

Department of Electricity, which shall be administered by a chief of department. The premises of any person, firm or corporation may, for the purpose of police or fire protection, be connected with the police or fire signal or telephone system of the city and county upon paying a fair compensation for such connection and the use of the same, provided that any such connection shall require the approval of the chief of the department of electricity and shall not in any way overload or interfere with the proper and efficient operation of the circuit to which it is connected. The conditions upon which such connection shall be made and the compensation to be paid therefor shall be fixed by the board of supervisors by ordinance upon the recommendation of the chief of the department.

Department of Public Health, which shall be administered by a director of health, who shall be a regularly licensed physician or surgeon in the State of California, with not less than ten years' practice in his profession immediately preceding his appointment thereto; provided, however that the physician as surgeon requirement may be waived by the board of supervisors. He shall be appointed by the chief administrative officer and shall hold office at his pleasure.

The chief administrative officer shall have power to appoint and to remove an assistant director of public health for hospital services, who shall be responsible for the administrative and business management of the institutions of the department of public health, including, but not limited to, the San Francisco General Hospital, Laguna Honda Home, Hassler Health Home, and the Emergency Hospital Service, and who shall be exempt from the civil service provisions of the charter. The position of assistant director of public health for hospital services shall be held only by a person who possesses the educational and administrative qualifications and experience necessary to manage the institutions of the department of public health.

The director of public health shall have power to appoint and remove an administrator of San Francisco General Hospital who shall be exempt from the civil service provisions of the charter. The position of administrator shall be held only by a physician or hospital administrator who possesses the educational and administrative qualifications and experience necessary to manage the San Francisco General Hospital.

Health Advisory Board. There is hereby created a health advisory board of seven members, three of who shall be physicians and one a dentist, all regularly certificated. Members of the board shall serve without compen-

sation. They shall be appointed by the chief administrative officer for terms of four years; provided, however, that those first appointed shall classify themselves by lot so that the terms of one physician and one lay member shall expire in 1933, 1934 and 1935, respectively, and the term of one member in 1936.

Such board shall consider and report on problems and matters under the jurisdiction of the department of public health and shall consult, advise with and make recommendations to the director of health relative to the functions and affairs of the department. The recommendations of such board shall be made in writing to the director of health and to the chief administrative officer.

Coroner's office, which shall include the functions and personnel of the existing office of coroner as established at the time this charter shall go into effect.

County Agricultural Department, which shall be administered by a county agricultural commissioner and shall include functions established by state law and those assigned to it by or in accordance with provisions of this charter.

Department of Weights and Measures, which shall include the functions and personnel of the office of sealer of weights and measures as established at the time this charter shall go into effect.

Convention Facilities Management Department, which shall include the city and county's convention facilities, including but not limited to Brooks Hall, Civic Auditorium and Moscone Center, and shall consist of a general manager and such employees as may be necessary to carry out the functions and duties of said department. The chief administrative officer shall have charge of the department of convention facilities management.

The chief administrative officer shall appoint a general manager of the convention facilities management department who shall hold office at his pleasure. The general manager shall be the administrative head and appointing officer of the department of convention facilities management. Subject to the approval of the chief administrative officer, the general manager shall have power to alter, repair, manage, operate and maintain all of the city and county convention facilities, including but not limited to Brooks Hall, Civic Auditorium and Moscone Center. All contracts or orders for work to be performed on convention facilities shall be awarded and executed by the general manager with the approval of the chief administrative officer and shall be administered by the general manager.

It shall be the function and duty of the department of convention facilities management to manage, operate and maintain all of the city and county convention facilities, including, but not limited to, Brooks Hall, Civic Auditorium and Moscone Center.

If in the election of June 3, 1980 two or more propositions amending section 3.510 of this charter receive the number of votes necessary for their adoption, notwithstanding any other provisions of this charter, the city attorney shall incorporate their provisions into one section.

Section 3.674 is added to read as follows:

3.674 Funding the Retirement System

Notwithstanding any other provisions in this charter, the retirement board shall determine city and county and district contributions on the basis of a normal contribution rate which shall be computed as a level of percentage of compensation which, when applied to the future compensation of the average new member entering the system, together with the required member contribution, will be sufficient to provide for the payment of all prospective benefits of such member. The portion of liability not provided by the normal contribution rate shall be amortized over a period not to exceed twenty (20) years. All expenses incurred in the implementation of this section, including but not limited to the valuation, investigation and audit of the system as may be required, shall be paid from the accumulated contributions of the city and county.

Section 6.408 is amended to read as follows:

6.408 Airports Revenue Fund

(a) Subject to the budget and fiscal provisions of this charter: (1) The entire gross revenue of the airports commission shall be set aside and deposited into a fund in the city and county treasury to be known as the "Airports Revenue Fund." All amounts paid into said fund shall be maintained by the treasurer separate and apart from all other city and county funds and shall be secured by his official bond or bonds. Said fund shall be exempt from section 6.407 of this charter. (2) Separate accounts shall be kept with respect to receipts and disbursements of each airport under the jurisdiction of the commission.

(b) Moneys in the Airports Revenue Fund including earnings thereon shall be appropriated, transferred, expended or used for the following purposes pertaining to the financing, maintenance and operation of airports and related facilities owned, operated or controlled by the commission and only in accordance with the following priority: (1) the payment of operation and maintenance expenses for such airports or related facilities; (2) the payment of pension charges and proportionate payments to such compensation and other insurance or outside reserve funds as the commission may establish or the board of supervisors may require with respect to employees of the commission; (3) the payment of principal, interest, reserve, sinking fund, and other mandatory funds created to secure revenue bonds hereafter issued by the commission for the acquisition, construction or extension of airports or related facilities owned, operated or controlled by the commission; (4) the payment of principal and interest on general obligation bonds heretofore or hereafter issued by the city and county for airport purposes; (5) reconstruction and replacement as determined by the commission or as required by any airport revenue bond ordinance duly adopted and approved; (6) the acquisition of land, real property or interest in real property for, and the acquisition, construction, enlargement and improvement of new and existing buildings, structures, facilities, utilities, equipment, appliances and other property necessary or convenient for the development or improvement of any airports and heliports owned, controlled or operated by the commission in the promotion and accommodation of air commerce or navigation and matters incidental thereto; (7) the return and repayment into the general fund of the city and county of any sums paid by the city and county from

funds raised by taxation for the payment of interest on and principal of any general obligation bonds heretofore issued by the city and county for the acquisition, construction and improvement of the San Francisco International Airport; (8) for any other lawful purpose of the commission including, but not limited to, transfer to the general fund during each fiscal year of twenty-five (25%) percent, or such lesser percentage as the board of supervisors shall by ordinance establish, of the non-airline revenues as a return upon the city and county's investment in said airport. "Non-airline" revenues means all airport revenues from whatever source less revenues from airline rentals and charges to airlines for use of airport facilities.

Section 7.310 is added to read as follows:

7.310 Bonds for financing the acquisition, construction or rehabilitation of housing.

(a) Notwithstanding the voter approval requirements in Section 7.300, the board of supervisors may, by ordinance, from time to time authorize the issuance of bonds to establish a fund for the purpose of providing mortgage financing for the acquisition, construction, or rehabilitation of housing in the City and County of San Francisco, or for the purpose of refunding such bonds. The issuance of such bonds shall be pursuant to procedures adopted by ordinance of the board of supervisors. The repayment of principal, interest and other charges on such loans to property owners, together with such other monies as the board of supervisors may, in its discretion, make available therefor, shall be the sole source of funds pledged by the city and county for repayment of such bonds. Bonds issued under the provisions of this section shall not be deemed to constitute a debt or liability of the City and County of San Francisco or a pledge of the faith and credit of the City and County of San Francisco, but shall be payable solely from the funds specified in this section. The issuance of such bonds shall not directly, indirectly, or contingently obligate the board of supervisors to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(b) Nothing in this section shall affect the authority of the board of supervisors to authorize the issuance of bonds under any other applicable provision of this Charter or any other applicable provision of the general laws of the State of California.

Section 7.400 is amended to read as follows:

7.400 Director of Property

The director of property shall be the head of the department of property. He shall have charge of the purchase of real property and improvements required for all city and county purposes, and the sale and lease of real property and improvements thereon owned by the city and county, except as otherwise provided by this charter. In the acquisition of property required for street opening, widening or other public improvements, the director of property shall make preliminary appraisals of the value of the property sought to be condemned or otherwise acquired, and report thereon to the responsible officer. It shall be his duty, in addition, to assist in such proceedings on the request of the responsible officer.

Except for the Convention Facilities Management Department, each department authorized by the approval of bond issues or by annual or

supplemental appropriation ordinances to purchase or lease property or improvements needed for the purposes of such department shall make such purchases or leases through the director of property. He shall make a preliminary valuation of the property to be acquired or leased and report the same to the department requiring such property. For such purposes he may employ independent appraisers. He shall conduct negotiations with the owner or owners thereof, at the conclusion of which he shall report the terms on which such sale or lease may be concluded, together with his recommendations thereon. The head of the department concerned may report to the board of supervisors and recommend acceptance or that proceedings in eminent domain be instituted for the acquisition of such property.

The director of property shall maintain complete records and maps of all real property owned by the city, which shall show the purchase price, if known, and the department in charge of each parcel, with reference to deeds or grants establishing the city's title.

He shall annually report to the mayor, the controller, the chief administrative officer, and the supervisors the estimated value of each parcel and improvement. He shall make recommendations to the mayor and chief administrative officer relative to the advantageous use, disposition, or sale of real property not in use.

Section 8.300 is amended to read as follows:

8.300 Civil Service Positions

(a) All positions in all departments and offices of the city and county, including positions created by laws of the State of California, where the compensation is paid by the city and county, shall be included in the classified civil service of the city and county, and shall be filled from lists of eligibles prepared by the civil service commission, excepting:

(1) Positions in which attorneys and physicians are employed in their professional capacity to perform only duties included in their professions, but exclusive of any administrative or executive positions for which such professional status constitutes only part of the qualification therefor;

(2) All employees of the San Francisco Unified School District who serve in the capacity of paraprofessionals and technical instructional assistants employed by the San Francisco Community College District; provided, however, that presently employed persons be granted status and those who are on existing eligibility lists as of December 31, 1973 be granted status rights to appointment in rank order;

(3) Inmate help or student nurses, or part-time services, where the compensation including the value of any allowances in addition thereto does not exceed one hundred fifty dollars (\$150) per month. Provided that for each fiscal year following fiscal year 1963, the civil service commission shall adjust the one hundred fifty dollar (\$150) maximum for part-time service as provided herein, in accordance with the average percentage increase or decrease approved for all classifications under the provisions of section 8.400 and 8.401 of this charter, and such adjusted rate shall be included in the annual salary ordinance. Provided further that such part-time positions shall not be exempted from being filled from appropriate lists of civil service eligibles, except upon the recommendation of the

appointing officer, who shall set forth the schedule of operations showing that the operations involved require the service of employees for not more than seventy (70) hours per month and approval of the civil service commission, including a certification that such part-time positions cannot practically be filled from existing eligible lists. These provisions shall not be used to split or divide any position into two or more units for the purpose of evading the provisions of this section;

(4) Persons employed in positions outside the city and county upon construction work being performed by the city and county when such positions are exempted from said classified civil service by an order of the civil service commission;

(5) Persons employed in positions in any department for expert professional temporary services, and when such positions are exempted from said classified civil service for a specified period of said temporary service, by order of the civil service commission;

(6) Such positions as, by other provisions in this charter, are specifically exempted from, or where the appointment is designated as exclusive of, the civil service provisions of this charter.

The civil service rights, acquired by persons under the provisions of the charter superseded by this charter, shall continue under this charter.

Any person holding a salaried office under the city and county, whether by election or appointment, who shall, during his term of office, hold or retain any other salaried office under the government of the United States, or of this state, or who shall hold any other salaried office connected with the government of the city and county, or who shall become a member of the legislature, shall be deemed to have thereby vacated the office held by him under the city and county.

(b) Positions as heads of offices, agencies, departments, bureaus, or institutions shall be subject to the civil service provisions of this charter unless specifically exempted.

(c) Notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to protect the employment rights of employees of the port authority as specified in Section 20 of Statutes 1968, Ch. 1333.

(d) All positions in buildings and improvements of the California Academy of Sciences for which funds shall be furnished by the city and county, under section 6.404 (d) of this charter, shall be held by employees of the city and county, with the exception of the director, the secretary of the board of trustees of said California Academy of Sciences, the curators and other scientific and professional personnel, and occupants of part-time positions for which a total compensation of less than \$80.00 per month is provided by the city and county, inclusive of allowance for maintenance and other incidental benefits. Positions held by employees of the city and county at said buildings and improvements shall be subject to the civil service provisions of this charter and the compensation thereof shall be subject to the salary standardization provisions of this charter, in like manner and extent in all respects as positions and compensations of employments in the city and county service generally, notwithstanding anything to the contrary contained in the charter or ordinances of said city

and county. The chief administrative officer shall be the appointing officer as provided in this charter.

(e) All persons employed in the operating service of any public utility hereafter acquired by lease or under any other temporary arrangement, under which the city acquires the right to operate said utility, shall be continued in their respective positions and shall be deemed appointed to such positions under, and entitled to all, the benefits of the civil service provisions of this charter for the period of time during which the city shall continue to operate said utility under said lease or other temporary arrangement. Should the city permanently acquire said utility, said persons shall come into the permanent employ of the city and county in their respective positions and shall be deemed permanently appointed thereto under the civil service provisions of the charter and shall be entitled to all the benefits thereof, all subject to the provisions contained in section 8.300(f) and 8.450 of the charter; provided, however, that said employees who are taken over into the employ of the city under said lease or other temporary arrangement shall not be subject to the residential qualifications of the charter, during the term of said lease or other temporary arrangement. All employees of any such utility, acquired or operated by the city under any lease or other temporary arrangement, who come into the employ of said utility after the temporary acquisition of same, shall be subject to the civil service provisions of the charter. The civil service rights of any person who comes into the service of the city under any lease or other temporary arrangement for the acquisition and operation of said utility shall cease and terminate upon the expiration of said lease or other temporary arrangement.

(f) All persons employed in the operating service of any public utility hereafter acquired by the city and county, at the time the same is taken over by the city and county, and who shall have been so employed for at least one year prior to the date of such acquisition, shall be continued in their respective positions and shall be deemed appointed to such positions, under, and entitled to all the benefits of, the civil service provisions of this charter.

(g) All employees engaged in public utility work at the time this charter shall go into effect, and who have been permanently appointed to their respective positions in conformity with the civil service provisions of this charter, shall except as otherwise provided by this charter become employees of the public utilities commission under the classification held by each such employee at such time.

(h) Any employee who was a permanent civil service appointee assigned to the airport department under the public utilities commission immediately prior to the effective date of this section, shall be continued without loss in civil service rights as an appointee of the airport department, provided that civil service rights as they relate to layoff in the event of lack of work or lack of funds of all permanent employees of the public utilities commission, including the airport department, immediately prior to the effective date of this section, shall be continued without loss in the same manner and to the same extent as though the airport department had not by these amendments been created a separate city function under

the airports commission.

(i) Any employee who was a permanent civil service appointee assigned to an exposition auditorium and whose job function is placed under the Convention Facilities Management Department shall be continued without loss in civil service rights as though said job functions had not by amendment to this charter been placed under the jurisdiction of the chief administrative officer, and shall not lose those civil service rights which relate to layoff from a permanent civil service position in the event of lack of work or lack of funds.

Section 8.452 is amended to read as follows:

8.452 Fire Department

The chief of department shall recommend and the fire commission shall provide by rule for work schedules or tours of duty for the officers and members occupying the several ranks of the fire department; provided, however, that the normal work week determined on an annual basis for such officers and members shall not exceed 48.7 hours. All tours of duty established for officers and members assigned to the fire fighting companies and firefighting units excepting the arson investigation unit, shall start at eight o'clock A.M. No such officer or member shall be required to work more than twenty-four consecutive hours except in case of a conflagration, disaster, or sudden and unexpected emergency of a temporary nature requiring the services of more than the available on-duty officers and members of the uniformed force of the department. Officers and members may exchange watches with permission of the chief of the department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 48.7 hours in any normal work week nor twenty-four consecutive hours. Each such officer and each such member shall be entitled to at least one (1) day off duty during each week.

When in the judgment of the fire commission, it is in the public interest that any such officer or member shall work on his day off and said officer or member consents to so work, he may at the direction of the chief of department work on said day off, and in addition to the regular compensation provided for said officer or member as set forth in this charter, said officer or member shall be entitled to be compensated at his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as defined in any provisions relating to the retirement system, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions.

Officers and members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedule of compensations adopted by the board of supervisors, pursuant to the provisions of section 8.401 of the charter, as additional days off with pay. Officers or members required to perform service in said department on said days shall be compensated on the basis of straight time as herein computed or shall be granted equivalent time

off duty with pay in the judgment of the fire commission.

For payroll purposes, that portion of each tour of duty which falls within each calendar day shall constitute a single tour of duty. The rate of compensation for the service performed by officers or members on a holiday or for service performed on an assigned day off, as in this charter provided, shall be calculated by dividing the annual rates of pay for each fiscal year by the number of single tours of duty as scheduled for the several ranks in the fire fighting companies in said fiscal year.

Section 8.518 is added to read as follows:

8.518 Hearing Officer

Notwithstanding the provisions of Section 3.671, subsection (C) of Section 8.509, Sections 8.515, 8.516, 8.547, 8.548, 8.559-3, 8.559-4, 8.571, 8.572, 8.584-3, 8.585-3, 8.585-4, 8.586-3, 8.586-4, 8.588-3, 8.586-4, or 8.588-4, any application for disability leave, disability retirement, or death allowance made pursuant to said subsection of said sections of this charter shall be heard by a qualified and unbiased hearing officer employed under contract by the retirement board and selected by procedures set forth in the rules of the retirement board. The retirement board shall have the power to establish rules setting forth the qualifications and selection procedure necessary to appoint a qualified and unbiased hearing officer. Following public hearing, the hearing officer shall determine whether such application shall be granted or denied.

All expenses relating to processing and adjudicating the above applications, including but not limited to the cost of hearing officer, legal, investigative, and court reporter services, shall be paid from the compensation fund.

At any time within thirty (30) days after the service of the hearing officer's decision, the applicant or any other affected party, including the retirement system, may petition the hearing officer for a rehearing upon one or more of the following grounds and no other:

- a. That the hearing officer acted without or in excess of his powers.
- b. That the decision was procured by fraud.
- c. That the evidence does not justify the decision.
- d. That the petition has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.

Upon the expiration of thirty (30) days after the petition for rehearing is denied, or if the petition is granted, upon the expiration of thirty (30) days after the rendition of the decision or hearing, the decision of the hearing officer shall be final. Such final decision shall not be subject to amendment, modification or rescission by the retirement board, but shall be subject to review by the retirement board only for the purpose of determining whether to seek judicial review, and such final decision shall be deemed for all purposes to be the decision of the retirement board.

The provisions of this section shall become operative on October 1, 1980.

Certified to be a true copy by John L. Molinari, President Board of Supervisors and Gilbert H. Boreman, Clerk Board of Supervisors.

Date of Primary Election: June 3, 1980.

Charter Chapter 12—County of Fresno

Amendments to the Charter of the County of Fresno

[Filed with the Secretary of State July 11, 1980]

Section 40 of the Charter is repealed.

Section 41 of the Charter is amended to read as follows:

SECTION 41. No officer or employee shall be interested directly or indirectly in any contract or transaction with the County or become a surety upon any bond given to the County.

No officer or employee shall receive any commission, money, or thing of value, or derive any profit, benefit or advantage, directly or indirectly, from or by reason of any dealings with, or service for the County, by himself or otherwise, except his lawful compensation as such officer or employee.

As to members of appointive boards and commissions only, the following standards shall apply. No appointive board or commission member shall be financially interested in any contract made by any body or board of which he is a member. The meaning of the terms "financial interest" and "made" shall be consistent with state law. Nothing contained herein shall be construed to apply to a member of a board or commission which is purely advisory.

Any violation of the provisions of this section shall render the contract or transaction involved voidable at the option of the Board of Supervisors. It shall be the duty of every officer and employee who has knowledge of any violation of the provisions of this section immediately to report such violation to the Board of Supervisors. Failing to do so, he may be removed from his office or employment.

Certified to be a true copy by Sharon Levy, Chairman of the Board of Supervisors and Arlene Ramirez, Deputy Clerk of the Board of Supervisors.

Date of Primary Election: June 3, 1980.

Charter Chapter 13—City of Fresno

Amendments to the Charter of the City of Fresno

[Filed with the Secretary of State July 16, 1980]

Section 301 of the Charter is amended to read as follows:

SECTION 301. MANNER OF ELECTION. The Mayor shall be elected from the City at large at the times and in the manner provided in this Charter. The Councilmen shall be elected by district at the times and in the manner provided in this Charter.

Section 304.1 of the Charter is amended to read as follows:

SECTION 304.1. ELIGIBILITY, DISTRICT RESIDENCE. Commencing with the 1981 general municipal election, no person shall be eligible to hold elective office as a Councilman unless he is, and shall have been for a period of at least thirty days immediately preceding the filing of his nomination paper for such office or his appointment to such office, a resident within the Council district corresponding in number to the office to which he is elected or appointed. Each Councilman shall, during his term of office, reside within such Council district. The boundaries of such districts shall be determined by the Council by ordinance and shall be redetermined by the Council, by ordinance adopted not later than one hundred and twenty days following the publication of each federal census thereafter; provided that the population disparity between districts shall not exceed ten percent at the time of any such boundary determination or redetermination, and no boundary shall be altered so as to exclude any incumbent from office prior to the expiration of his term.

Section 302 of the Charter is amended to read as follows:

SECTION 302. DESIGNATION OF COUNCILMEN FOR ELECTION. As to the Councilmen there shall be deemed to be six separate offices to be filled, one of which shall be designated as Councilman Number One, another as Councilman Number Two, another as Councilman Number Three, another as Councilman Number Four, another as Councilman Number Five, and another as Councilman Number Six. No candidate shall file for more than one elective office. Such designation shall be used on all nomination papers, certificates of election and all election papers referring to the office.

Section 303 of the Charter is amended to read as follows:

SECTION 303. TERM OF OFFICE. Except as otherwise provided in this article, the terms of elective offices shall be four years. Incumbents shall hold office until their successors are elected and qualified.

In 1981 and every fourth year thereafter, the offices of Councilmen designated as Number Two, Number Four and Number Six and the office of Mayor shall be filled at the general municipal election held in May, or at such other time as provided by this Charter. In 1983 and every fourth year thereafter, the offices of Councilmen designated as Number One, Number Three and Number Five shall be filled at the general municipal election held in May, or at such other time as provided by this Charter.

Section 1400 of the Charter is amended to read as follows:

SECTION 1400. DIRECT PRIMARY AND GENERAL MUNICIPAL ELECTIONS. Direct primary elections for the nomination of candidates to be voted for at the ensuing general municipal election and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in March in each odd-numbered year, commencing with the year 1981. General municipal elections for the election of officers and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in May in each odd-numbered year, commencing with the year 1981. Notwithstanding the above, the Council may by ordinance or resolution provide for such elections to be held within thirty-one days of either of

such dates for the purpose of consolidation with any election to be conducted in the County of Fresno, State of California.

Section 308 of the Charter is amended to read as follows:

SECTION 308. COMPENSATION OF ELECTIVE OFFICERS.

(a) The Council shall establish by ordinance the compensation of the elective officers of the City.

(b) Once the compensation of elective officers is fixed pursuant to subsection (a) of this section, the compensation of an elective officer shall not thereafter be increased or diminished during his term of office.

Section 402 of the Charter is repealed.

Section 501 of the Charter is repealed.

Certified to be a true copy by Daniel K. Whitehurst, Mayor and Jacqueline L. Ryle, City Clerk.

Date of Special Municipal Election: June 3, 1980.

Charter Chapter 14—City of San Diego

Amendments to the Charter of The City of San Diego

[Filed with the Secretary of State July 16, 1980]

Amend Article III of the Charter of The City of San Diego by adding Section 11.1 to read as follows:

Section 11.1 LEGISLATIVE POWER—NONDELEGABLE.

The same prohibition against delegation of the legislative power which is imposed on the State Legislature by Article XI, Section 11a of the Constitution of the State of California shall apply to the City Council of The City of San Diego, so that its members shall not delegate legislative power or responsibility which they were elected to exercise in the adoption of any ordinance or resolution which raises or spends public monies, including but not limited to the City's annual budget ordinance or any part thereof, and the annual ordinance setting compensation for City employees, or any ordinance or resolution setting public policy.

In setting compensation for City employees, the City Council shall adopt an ordinance no later than May 30 of each year after considering all relevant evidence including but not limited to the needs of the citizens of the City of San Diego for municipal services and the ability of the citizens to pay for those services; provided, however, that the City Council shall give priority in the funding of municipal services to the need of the citizens for police protection.

Amend Section 92, Article VII, of the Charter of The City of San Diego to read as follows:

Section 92. BORROWING MONEY ON SHORT TERM NOTES.

Bonds or notes may be issued in anticipation of the collection of special assessments, and bonds, notes, or registered warrants on the treasury may be issued in anticipation of the collection of taxes, as authorized by the

City Council by resolution and shall not be deemed the creation of debt within the meaning of Section 90 of this Article. Bonds, notes or registered warrants on the treasury issued in anticipation of the collection of the taxes of any fiscal year may be issued during each fiscal year and each such bond, note, or warrants shall specify that it is payable out of the taxes of the fiscal year in which issued, and before the close of such year, and shall not bear a higher rate of interest than the maximum rate established by Council resolution within the legal limit, and the total amount of such bonds, notes or warrants, authorized and issued in any fiscal year shall not, in the aggregate, be more than twenty-five (25) percent of the total appropriations of the City for such year. Nothing herein contained shall be construed to authorize the incurring of an obligation against the municipality in excess of that authorized to be incurred by the Constitution of the State of California.

Amend Section 129 of Article VIII of the Charter of The City of San Diego to read as follows:

Section 129 REMOVALS, SUSPENSION AND LAYOFFS.

Upon attaining permanent status pursuant to the Rules of the Civil Service Commission, any officer or employee of the City in the classified service, may be removed from office or employment for cause by the appointing authority. Written notice of removal given to any officer or employee, or written notice left at or mailed to his or her usual place of residence, shall be sufficient to put any such removal into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefor and the right to be heard before the Civil Service Commission. Upon such demand the appointing authority ordering the removal shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefor, and the Commission shall fix a time and place for a public hearing. Following the public hearing, and such investigation as the Civil Service Commission may see fit to make, the Commission shall report its findings and recommendations to the authority responsible for the removal as specified in the notice. Thereupon the authority making the removal shall make such final disposition of the matter as may be determined by the Civil Service Commission. The decision of the Civil Service Commission in any such case shall be final. A copy of the written statement of reasons given for any removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the Civil Service Commission shall be filed as a public record in the office of the Civil Service Commission. Prior to attaining permanent status, any officer or employee in the classified service may be removed under those conditions and in the manner specified by the Civil Service Commission.

Any officer or employee of the City in the classified service may be suspended from office or employment for cause or for investigation of misconduct by the appointing authority. Written notice of suspension given to any officer or employee, or written notice left at or mailed to his or her place of residence, shall be sufficient to put any such suspension into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefor and a right to appeal

said suspension for cause. Upon such demand the officer making the suspension shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefor. The appellant shall be accorded all rights and privileges pursuant to law. The Civil Service Commission shall by rules or regulations, establish procedures for conducting hearings and/or investigations, and reporting findings and recommendations to the appointing authority. All findings and recommendations in any such case shall be final.

The Civil Service Commission shall promulgate rules and regulations necessary to govern layoffs for lack of funds, lack of work, or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in any office or department of The City of San Diego.

Certified to be a true copy by Pete Wilson, Mayor and Charles G. Abdelnour, City Clerk.

Date of Special Municipal Election: June 3, 1980.

Charter Chapter 15—City of Inglewood

Amendments to the Charter of the City of Inglewood

[Filed with the Secretary of State July 21, 1980]

Section 1 of Article IV of the Inglewood City Charter is amended to read as follows:

Section 1: The officers of the City of Inglewood shall consist of a mayor, four members of the council, a city clerk, a city treasurer, a city attorney, a city engineer, a chief of police and a fire chief.

Article XV of the Inglewood City Charter is amended to read as follows:

ARTICLE XV CITY ENGINEER

Section 1: The City Engineer shall, by virtue of his office and for purposes of State Law, be Street Superintendent and shall be a civil engineer of not less than five years' professional experience. He shall receive such salary or compensation as the City Council shall by ordinance prescribe.

Section 2: He shall have all the powers and perform all the duties imposed upon him by this charter, the ordinances of the city, the general laws of the state and orders of the Council and shall be the custodian of and responsible for all maps, plans, profiles, field notes and other records and memoranda belonging to the City pertaining to his office and the work thereof—all of which he shall keep in proper order and condition, with full index thereof, and shall turn over the same to his successor.

Article XXI of the Inglewood City Charter establishing the position of Water Works Superintendent is repealed.

Article XXIII of the Inglewood City Charter establishing the position of Superintendent of Buildings is repealed.

Article XXIV of the Inglewood City Charter establishing the position of Park Superintendent is repealed.

Article XXVIII of the Inglewood City Charter establishing a Water Department is repealed.

Article XXIX of the Inglewood City Charter establishing a Health Department is repealed.

Certified to be a true copy by Lee Weinstein, Mayor and Iris A. Crochet, City Clerk.

Date of Special Election: June 3, 1980.

Charter Chapter 16—City of Mountain View

Amendments to the Charter of the City of Mountain View

[Filed with the Secretary of State July 24, 1980]

Sections 402, 500, 501, 502, 503, 504, 505, 514, 600, 601, 602, 603, 604, 606, 607, 700, 701, 703, 704, 705, 706, 709, 710, 711, 713, 714, 715, 716, 905, 907, 908, 1002, 1003, 1103, 1107, 1200 and 1603, are amended or repealed as follows:

Section 402. When an elective office becomes vacant.

An elective office becomes vacant when the incumbent dies, resigns, is removed from office under recall proceedings, is adjudged insane, convicted of a felony, or of an offense involving a violation of the incumbent's official duties, or ceases to be a resident of the city, or neglects to qualify within the time prescribed by the provisions of this Charter, or shall have been absent from the state without leave for more than sixty days, or fails to attend the meetings of the council for a like period without being excused therefrom by said body. (Amended by election June 3, 1980.)

Section 500. Term of office.

Except as otherwise provided in this section, the members of the council shall hold office for a term of four (4) years from and after the first Tuesday following their election and continuing until their respective successors qualify.

Ties among candidates for any office shall be settled by the drawing of lots.

No person shall be eligible to serve as a member of the city council for more than two successive four-year elective terms. Any person appointed or elected to the city council to fill an unexpired term of not more than two years in length shall, however, be eligible to serve two successive four-year elective terms upon the expiration of the unexpired term for which that person was appointed or elected. (Amended March 4, 1975; amended by election June 3, 1980.)

Section 501. Eligibility.

No person shall be eligible to be nominated for or to hold office as a member of the council unless that person is and shall have been a regis-

tered voter of the City of Mountain View at the time nomination papers are issued to the candidate and that the person be a qualified elector of the City of Mountain View or of territory annexed thereto, as defined in the California Elections Code. (As amended April 9, 1974; amended by election June 3, 1980.)

Section 502. Councilmember to hold no other office.

No member of the council shall hold any other city office or city employment except as is otherwise provided by this Charter. No member of the council shall be eligible to be elected or appointed to any city position, office or employment which was created or the compensation of which was increased by the council while that person was a member thereof, until one year after the expiration of the term for which the councilmember was elected or appointed. (Amended by election June 3, 1980.)

Section 503. Compensation.

Each member of the city council shall receive as salary, each month, the sum of two hundred fifty (\$250) dollars per month. Said sum is the amount which has been established by the state legislature for members of the city councils of general law cities having a population range over 50,000 up to and including 75,000 within which the City of Mountain View falls. The mayor shall receive as salary, each month, the sum of two hundred fifty (\$250) dollars per month, plus an additional twenty-five percent (25%) of said sum, or a total of three hundred twelve dollars and fifty cents (\$312.50) per month. If a member of the city council, or the mayor, does not attend all meetings of the city council or study sessions called on order of the city council and held during the month, that person's salary for such month shall be reduced by the sum of twenty-five dollars (\$25) for each meeting or study session not attended unless that person is absent on official duty with the consent of or on order of the city council. (As amended, April 9, 1968; amended by election, June 3, 1980.)

Section 504. Vacancies.

Vacancies in the council from whatever cause arising shall be filled by appointment by the council, and the person so appointed shall hold office until the first Tuesday following the next general municipal election and until that person's successor qualifies. At the next general municipal election following any vacancy, a councilmember shall be elected to serve for the remainder of any unexpired term.

In the event that the council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy. The person so elected shall hold office for the unexpired term of the former incumbent and until that person's successor qualifies. (As amended, April 12, 1960; amended by election June 3, 1980.)

Section 505. Election, powers and duties of mayor; designation of mayor pro tempore.

(a) Mayor. On the first Tuesday following any general or special municipal election at which any councilmember or councilmembers are elected, the council shall meet and shall elect one of its members as its presiding officer, who shall have the title of mayor. The mayor shall have a voice and vote in all its proceedings. The mayor shall be the official head

of the city for all ceremonial purposes. The mayor shall perform such other duties consistent with the mayoral office as may be prescribed by this Charter or as may be imposed by the council. The mayor shall serve in such capacity at the pleasure of the council. In time of public danger or emergency, the Mayor may, with the consent of the council, take command of the city, maintain order, and enforce laws.

(b) Mayor pro tempore. The council shall also designate one of its members as mayor pro tempore who shall serve in such capacity at the pleasure of the council. The mayor pro tempore shall perform the duties of the mayor during the mayor's absence or disability. (Amended by election June 3, 1980.)

Section 514. Adoption of ordinances and resolutions.

With the sole exception of ordinances which take effect upon adoption referred to in this article, no ordinance shall be adopted by the council on the day of its introduction, nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting nor until such ordinance shall have been published as required in this Charter. At the time of introduction or adoption of an ordinance or resolution it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the councilmembers present. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting, held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

Any ordinance declared by the council to be necessary as an emergency measure for preserving the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes. (Amended by election June 3, 1980.)

Section 600. Appointment; qualifications; removal; ineligibility of councilmembers.

There shall be a city manager who shall be the chief administrative officer of the city. The city manager shall be appointed for an indefinite term by the council and shall serve at the pleasure of the council, provided that the city manager shall not be removed from office except by the affirmative votes of at least five members of the council. The city manager shall be chosen on the basis of the person's executive and administrative qualifications, with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of office as hereinafter set forth. The city manager need not be a resident of the city or state at the time of appointment, but during the city manager's tenure of office, the city manager shall reside within the city.

No councilmember shall be eligible for appointment to the office of city manager during the term for which that councilmember shall have been elected nor within two years thereafter. (Amended by election June 3, 1980.)

Section 601. Compensation.

The city manager shall be paid a salary commensurate with the city manager's responsibilities as chief administrative officer of the city, which salary shall be established by ordinance or resolution. (Amended by election June 3, 1980.)

Section 602. Powers and duties.

The city manager shall be head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city. Without limiting the foregoing general grant of powers, responsibilities and duties, the city manager shall have power and be required to:

(a) Appoint, discipline and remove, subject to the personnel provisions of this Charter, all officers and employees of the city except as otherwise provided by this Charter. The city manager may authorize the head of any department or office to appoint or remove subordinates in such office.

(b) Prepare the budget annually, submit it to the council, and be responsible for its administration after its adoption.

(c) Prepare and submit to the council as of the end of the fiscal year, a complete report on the finances and administrative activities of the city for the preceding year.

(d) Keep the council advised of the financial condition and future needs of the city and make such recommendations on any matter as may to the city manager seem desirable.

(e) Establish a centralized purchasing system for all city offices, departments and agencies.

(f) Prepare rules and regulations governing the contracting for, purchasing, inspection, storing, inventory, distribution or disposal of all supplies, materials and equipment required by any office, department or agency of the city government and recommend them to the council for adoption by ordinance.

(g) Enforce the laws of the state pertaining to the city, the provisions of this Charter and the ordinances, franchises and rights of the city.

(h) Make investigations into the affairs of the city, or any department or division thereof, on any contract, or the proper performance of any obligation running to the city.

(i) Perform such other duties as may be prescribed by this Charter or required of the city manager by the council not inconsistent with this Charter. (Amended by election June 3, 1980.)

Section 603. Participation in council action.

The city manager shall be accorded a seat at the council table and at all meetings of boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. The city manager shall receive notice of all special meetings of the council, boards, and commissions. (Amended by election June 3, 1980.)

Section 604. Rules and regulations.

The city manager may prescribe such general rules and regulations as the city manager may deem necessary or expedient for the general conduct of the administrative offices and departments of the city under the

city manager's jurisdiction. (Amended by election June 3, 1980.)

Section 606. Additional duties.

Subject to the approval of the council, the city manager may act as head of any office, department or agency of the city under the city manager's control for which the city manager is qualified by training or experience. (Amended by election June 3, 1980.)

Section 607. Noninterference with administrative service.

Neither the council nor any of its members shall interfere with the execution by the city manager of the city manager's powers and duties, or order, directly or indirectly, the appointment by the city manager, or by any of the department heads in the administrative service of the city, of any person to any office or employment, or that person's removal therefrom. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager, and neither the council nor any member thereof shall give orders to any subordinate of the city manager, either publicly or privately. (Amended by election June 3, 1980.)

Section 700. Enumeration.

The officers of the City of Mountain View shall consist of the council, a city manager, a city clerk, a city attorney, a city auditor, and such other subordinate officers, assistants, deputies, and employees as the council may deem necessary to provide by ordinance. (Amended by election June 3, 1980.)

Section 701. Appointment and removal.

The city manager, city clerk, city auditor and city attorney shall be appointed by and may be removed by the affirmative votes of at least five members of the council. All other officers and department heads of the city shall be appointed by the city manager and shall serve at the pleasure of the city manager. (As amended April 12, 1960; amended by election June 3, 1980.)

Section 703. Compensation.

The compensation of all city officers and employees, except as otherwise provided in this Charter, shall be by salary to be fixed for ordinance or resolution. No officer or employee shall be allowed any fees, perquisites, emoluments, rewards or compensation, aside from the salary or compensation as fixed by the council, but all fees received by that person in connection with that person's official duties shall be paid by that person into the city treasury. (Amended by election June 3, 1980.)

Section 704. Oath of office.

Every officer of the city, before entering upon the duties of that person's office, shall take the oath of office as provided for in the constitution of this state, and shall file the same with the city clerk. (Amended by election June 3, 1980.)

Section 705. Official bonds.

The council shall fix by ordinance the amounts and terms of the official bonds of all officials or employees who are required by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the city attorney and shall be filed with the city clerk. Premiums on official bonds shall be paid by the city.

There shall be no personal liability upon, or any right to recover against, a superior officer, or that officer's bond, for any wrongful act or omission of that officer's subordinate, unless such superior officer was a party to, or conspired in such wrongful act or omission. (Amended by election June 3, 1980.)

Section 706. Financial interest in city contracts prohibited; exception.

No officer or employee of the city shall become financially interested except by testate or intestate succession, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the city is a party, or be employed by any public service corporation regulated by, or holding franchises in the city; provided, however, that any member of a board or commission serving without compensation may sell or contract to sell personal property to the city to be used by a department of the city, board or commission other than the board or commission on which that member serves. No officer or employee shall be deemed to be financially interested by the ownership of less than five per cent of the outstanding capital stock of a corporation. A wilful violation of any of the foregoing provisions shall be deemed a misdemeanor. Any contract or agreement made in contravention of this section shall be void. (Amended by election June 3, 1980.)

Section 709. Powers and duties of city clerk.

The city clerk shall have the power and be required to:

(a) Attend all meetings of the council and be responsible for the recording and maintaining of a full and true record of all the proceedings of the council in books that shall bear appropriate titles and be devoted to such purpose.

(b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the clerk annexed to each thereof stating the same to be the original or a correct copy and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.

(c) Maintain separate books, in which a record shall be made of all written contracts and official bonds.

(d) Keep all aforementioned books properly indexed and open to public inspection when not in actual use.

(e) Be the custodian of the seal of the city.

(f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the city and certify copies of the official records.

(g) Have charge of all city elections.

(h) Perform such other duties consistent with this Charter as may be required of the city clerk by the council. (Amended by election June 3, 1980.)

Section 710. Powers and duties of city auditor.

The city auditor shall be an experienced accountant, preferably one who has had experience in municipal accounting. The city auditor shall have power and be required to:

(a) Certify the correctness of all purchase orders before issuance; certify as correct and approve before payment, all bills, invoices, payrolls,

demands or charges against the city government and determine the regularity, legality and correctness of such claims, demands or charges.

(b) Perform such other duties consistent with this Charter as may be required of the city auditor by the council. The city auditor may require any claimant to make oath as to the validity of any claim or demand against the city. The city auditor may investigate any such claim or demand and for such purpose may examine witnesses under oath; and if the city auditor finds it fraudulent, erroneous or otherwise invalid, the city auditor shall refuse to certify the same for payment. (Amended by election June 3, 1980.)

Section 711. Powers and duties of city attorney; eligibility; employment of attorneys to assist, etc., in legal matters.

The city attorney shall have power and be required to:

(a) Represent and advise the council and all city officers in all matters of law pertaining to their offices.

(b) Represent and appear for the city in any or all actions and proceedings in which the city is concerned or is a party, and represent and appear for any city officer or employee or former city officer or employee in any or all actions and proceedings in which any such city officer or employee is concerned or is a party, for any action arising out of that person's employment or by reason of that person's official capacity.

(c) Attend all meetings of the council and give the city attorney's advice or opinion in writing whenever requested to do so by the council or by any of the boards or officers of the city.

(d) Approve the form of all bonds given to and all contracts made by the city, endorsing the city attorney's approval thereon in writing.

(e) Prepare any and all proposed ordinances or resolutions for the city, and amendments thereto.

(f) Prosecute on behalf of the people all criminal cases for violation of this Charter and of city ordinances.

(g) Perform such other duties consistent with this Charter as may be required of the city attorney by the council.

(h) On vacating the office, surrender to his or her successor all books, papers, files and documents pertaining to the city's affairs.

To become eligible for appointment as city attorney, the appointee shall have been admitted to practice as an attorney at law before the Supreme Court of the State of California, and shall have been engaged in the practice of law for at least three years immediately prior to that person's appointment.

The council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the city attorney therein. (Amended by election June 3, 1980.)

Section 713. Repealed by election June 3, 1980.

Section 714. Amended April 12, 1960; Repealed by election June 3, 1980.

Section 715. Repealed by election June 3, 1980.

Section 716. Repealed by election June 3, 1980.

Section 905. Compensation; vacancies.

The members of boards and commissions shall serve without compensa-

tion for their services as such, but may receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the council.

Any vacancies in any board or commission, from whatever cause arising, shall be filled by appointment by the council. Upon a vacancy occurring, leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term. If a member of a board or commission absents himself or herself from three regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of the city, that office shall become vacant and shall be so declared by the council. (Amended by election June 3, 1980.)

Section 907. Amended April 12, 1960; Repealed by election June 3, 1980.

Section 908. Repealed by election June 3, 1980.

Section 1002. Rules and regulations.

The personnel system provided by this article shall be implemented by such rules and regulations governing the administration thereof as are adopted by the council upon the recommendation of the city manager. (Amended by election June 3, 1980.)

Section 1003. Political activities prohibited; discrimination.

No employee of the city shall, while in uniform or during that employee's city working hours, take an active part in any municipal or other political campaign, nor seek or accept contributions for or against any candidate or issue therein, nor seek or accept signatures to any petition for or against any such candidate or issue. Nothing in this section shall be construed to prevent any such persons from seeking election or appointment to public office.

Except as otherwise provided by the general laws of this state heretofore or hereafter enacted, no person in the classified service, or seeking admission thereto, shall be employed, promoted, demoted or discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race or religious belief. (As amended April 9, 1974; amended by election June 3, 1980.)

Section 1103. Annual budget.

On such date in each year as shall be fixed by the council, the city manager shall send to the council a careful estimate, in writing, of the amounts, specifying in detail the objects thereof required during the next ensuing year for the business and proper conduct of the various departments, offices, boards and commissions of the city, over which the city manager has control. The city manager shall also at such time submit to the council an estimate of the amount of income from fines, licenses, and other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation. (Amended by election June 3, 1980.)

Section 1107. Contracts for public works.

Every project involving an expenditure of public monies of more than fifteen thousand dollars (\$15,000) appropriately indexed to 1978 dollars for

the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds, and streets (exclusive of projects for resurfacing, maintenance and repair of streets) shall be let by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least seven days before the time for opening bids.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the city. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten per cent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract within the time specified in the notice inviting bids or specifications referred to therein, the amount of the bidder's security shall be declared forfeited to the city and shall be collected and paid into its general fund and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The council may reject any and all bids presented and may readvertise in its discretion. The council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the city manager, the work in question may be performed better or more economically by the city with its own employees and after the adoption of a resolution to this effect by at least five affirmative votes of the council may proceed to have such work done in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids, if such work shall be deemed by the council to be of urgent necessity for the preservation of life, health or property and shall be authorized by resolution passed by at least five affirmative votes of the council and containing a declaration of the facts constituting such urgency.

Section 1200. When franchises are required.

No person, firm or corporation shall exercise any franchise right or privilege mentioned in this article in the city except insofar as that person or it may be entitled to do so by direct authority of the constitution of the State of California or of the United States, unless that person or it shall have obtained a grant therefor in accordance with the provisions of this article of this Charter and in accordance with the procedure prescribed by ordinance. Nothing contained in this article shall be construed to invalidate any lawful franchise heretofore granted nor to necessitate the obtaining of a new franchise for a use for which a franchise holder shall have a valid unexpired franchise. (Amended by election June 3, 1980.)

Section 1603. Construction of Charter.

Unless the provisions or the context otherwise require, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Mountain View and "department", "board", "commission", "agency", "officer", or "employee", is a department, board, commission, agency, officer or employee, as the case may be, of the

City of Mountain View.

- (c) "Council" is the city council of the City of Mountain View.
 - (d) "County" is the County of Santa Clara.
 - (e) "State" is the State of California.
- (As amended April 9, 1974; amended by election June 3, 1980.)

Certified to be a true copy by Matthew A. Allen, mayor and Alice Roylance, City Clerk.

Date of Special Municipal Election: June 3, 1980.

Charter Chapter 17—City of Santa Ana

Amendments to the Charter of the City of Santa Ana

[Filed with the Secretary of State August 27, 1980]

That Section 101.1 of the Charter of the City of Santa Ana is amended to read as follows:

Sec. 101.1 Wards of the city.

The City council shall divide the city into seven (7) wards by ordinance according to the following formula:

Each of the wards is to be as nearly equal in population as possible. The wards shall be composed of contiguous and compact territory and bounded by natural boundaries or street lines wherever possible. Any territory hereafter annexed to or consolidated with the city shall become a part of the ward to which it is most contiguous, pending any redistricting necessary to promote equality of population among the wards.

That Section 101.3 of the Charter of the City of Santa Ana is repealed.

That Section 401 of the Charter of the City of Santa Ana is amended to read as follows:

Sec. 401. Qualifications of members.

To be eligible to be elected to the office of councilman, a person must be a registered voter and a resident of the ward from which he is nominated at the time nomination papers are issued to him as provided in Section 22842 of the Elections Code of the State of California. In the event any councilman shall cease to be a resident of the ward from which he (or, in the case of an appointee, his predecessor) was elected his office shall immediately become vacant and shall be filled in the same manner as herein provided for other vacancies; provided, that where a councilman ceases to be a resident of the ward from which he (or, in case of an appointee, his predecessor) was elected solely because of a change in boundaries of any ward as in this Charter provided, he shall not lose his office by reason of such change. If a member of the city council shall be convicted of a crime involving moral turpitude, his office shall immediately become vacant and be so declared by the city council.

No person shall be eligible for nomination for or election to the office of councilman who has served two (2) consecutive terms of four (4) years

each. Short or partial terms shall not be considered.

That Section 10022 of the Charter of the City of Santa Ana is amended to read as follows:

Sec. 1002. Competitive and excepted service.

The civil service of the city shall be divided into the competitive service and the excepted service.

(a) The excepted service shall comprise the following offices and positions:

- (1) The individual offices held by all elective officers;
 - (2) The city manager and his assistants, if any;
 - (3) The city attorney and his legal assistants, if any;
 - (4) The director of finance;
 - (5) The director of personnel, if any;
 - (6) The head of each department of the city not otherwise specified herein, and the chief administrative officer of the Community Redevelopment Agency of the City of Santa Ana and of the Housing Authority of the City of Santa Ana, but not including the police chief or the fire chief;
 - (7) One private secretary to the city manager;
 - (8) All posts as members of boards and commissions;
 - (9) Positions occupied by persons employed to render professional, scientific, technical, or expert service of an occasional and exceptional nature;
 - (10) Positions in any class or grade created for a special or temporary purpose, and which are to exist for a period of not longer than ninety (90) days.
 - (11) Positions of any class or grade exempted from the competitive service for a maximum period of six (6) months in any calendar year provided that the personnel board upon application of the city manager and after public notice and hearings recommends to the city council such exemption and the city council grants such exception by motion adopted by two-thirds ($\frac{2}{3}$) of its members. Any such exemption shall not affect the tenure of any person whose appointment has become final under civil service;
 - (12) Part-time positions or employments requiring less than twenty regular hours of employment per week;
 - (13) School crossing guards;
 - (14) All positions occupied by persons employed to replace employees ordered to active duty, enlisted, or drafted for military service during a national emergency or when this country has declared war and until the expiration of the time when such replaced employee could demand his former position of employment under Federal or State statutes.
- (b) The competitive service shall comprise all positions not specifically included by this section in the excepted service.
- (c) Any person who, on the effective date of this Charter, holds a position or employment included in the competitive service as defined in this section or who is on an eligible or reemployment list for a position or class of position in such competitive service, shall retain all status previously held prior to the effective date of this Charter in such position, employment, eligible list, or reemployment list.

(d) The person holding the position of city clerk, city treasurer, or city marshal, each formerly an elective officer, if he shall have served continuously in such position for the period of six (6) months immediately prior to such effective date, shall assume regular status in the competitive service under this Charter; as to the person formerly holding the position of city clerk, in the position of clerk of the council; as to the person formerly holding the position of city treasurer, in a position having similar duties in the department headed by the director of finance, and as to the person formerly holding the position of, city marshal, in a position of chief of police, the duties of which position shall be prescribed by the city council by ordinance.

That the Charter of the City of Santa Ana is amended by adding Section 1012 to read as follows:

Sec. 1012. Employees of consolidated cities.

All officers and employees of any city hereafter consolidated with the City of Santa Ana, who were full-time officers or employees of such consolidated city upon the date of election held in such consolidated city for such consolidation, shall, from the effective date of such consolidation, be deemed to have their names upon eligible lists for the respective positions held by them and to be qualified for appointment to such respective positions in the City of Santa Ana without loss of any rights or benefits that they may theretofore have accrued.

That the Charter of the City of Santa Ana is amended by adding Section 1013 to read as follows:

Sec. 1013. Employees of other agencies.

In the event of the annexation of all or a portion of the geographic area of any governmental agency to the city or the agreement by the city to assume responsibility for providing any service for or on behalf of any governmental agency, it shall be discretionary with the city council whether or not all or any of the officers or employees of such agency shall be entitled to have their names placed upon eligible lists for the respective types of positions held by them and to be qualified for appointment to such respective positions in the City of Santa Ana.

Certified to be a true copy by James E. Ward, Mayor and Janice C. Guy, Clerk of the Council.

Date of Special Municipal Election: June 3, 1980.

Charter Chapter 18—City and County of San Francisco

*Amendments to the Charter of the City and County of
San Francisco*

[Filed with the Secretary of State September 10, 1980]

Section 2.100 is amended to read as follows:

2.100 Composition and Salary

The board of supervisors shall consist of eleven members elected at large. Each member of the board shall be paid a salary of ninety-six hundred dollars (\$9,600) per year and each shall execute an official bond to the city and county in the sum of five thousand dollars (\$5,000).

Section 9.100 is amended to read as follows:

9.100 Elective Officers and Terms

The mayor, an assessor, a district attorney, a city attorney, a sheriff, a treasurer, a public defender, the members of the board of education, and commencing with the general election in 1980, the members of the board of supervisors, shall be elected at large by the voters of the city and county.

At the general municipal election in 1943 and at the general municipal election in every fourth year thereafter, there shall be elected a mayor, a district attorney and a sheriff, and at the general municipal election in 1945, and at the general municipal election in every fourth year thereafter, there shall be elected a city attorney and a treasurer, and at the general election in 1942, and at the general election in every fourth year thereafter, there shall be elected an assessor and a public defender. At a special municipal election to be consolidated with the direct primary in 1972 seven members of the board of education shall be elected at large. At the general election in 1980, eleven members of the board of supervisors shall be elected at large. All of the aforesaid officials, except as set forth herein, shall be elected for a term of four years, from the commencement of their respective terms as herein specified.

Notwithstanding any provisions of this section or any other section of the charter to the contrary, the respective terms of office of the members of the board of supervisors who shall hold office on the 8th day of January, 1981, shall expire at twelve o'clock noon on said date and the eleven persons elected as members of the board of supervisors at the general election in 1980 shall succeed to said offices on said 8th day of January, 1981. The respective terms of office of the members of the board of supervisors elected at the general election in 1980 shall be as follows: the six members receiving the highest number of votes respectively at said election shall hold office for a term of four years; the five members receiving the next highest number of votes respectively at said election shall hold office for a term of two years. Thereafter, the term of each member elected to the board of supervisors shall be four years from the commencement of his term as herein specified.

At the general election in 1982 there shall be elected five members of the board of supervisors to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1983, and at the general election in each fourth year after 1982, the successors to said five members of the board of supervisors shall be elected, and at the general election in 1984, there shall be elected six members of the board of supervisors to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1985, and at the general election in each fourth year after 1984, the successors to said six members of the board of supervisors shall be elected.

The respective terms of the members of the board of education who shall hold office on the 8th day of August, 1972, shall expire at twelve

o'clock noon on said day, and the persons elected as members of the board of education at a special municipal election to be consolidated with the direct primary in 1972 shall succeed to said offices at twelve o'clock noon on said 8th day of August, 1972. The respective terms of office of the members of the board of education elected at a special municipal election to be consolidated with the direct primary in 1972, shall be as follows: The four members receiving the highest number of votes respectively at said election shall hold office for a term consisting of the period of time until the 8th day of January, 1975. Thereafter, the term of each member elected to the board of education shall be four years from the commencement of his term as herein specified.

At the general election in 1974 there shall be elected three members of the board of education to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1975, and at the general election in each fourth year after 1974, the successors to said three members of the board of education shall be elected, and at the general election in 1976 there shall be elected four members of the board of education to succeed those members thereof whose respective terms of office expire on the 8th day of January, 1977, and at the general election in each fourth year after 1976, the successors to said four members of the board of education shall be elected. Except as set forth herein, all terms of office of elective officials shall commence at twelve o'clock noon on the 8th day of January following the date of their election.

No person elected mayor or supervisor shall be eligible, for a period of one year after his last day of said service as mayor or supervisor, for appointment to any full-time position carrying compensation in the city and county service.

Section 9.104 is amended to read as follows:

9.104 Nomination of Elective Officers

The name of a candidate for an elective office shall be printed upon the ballot when a declaration of candidacy and certificates of not less than twenty nor more than thirty sponsors shall have been filed on his behalf and when the nominations shall have been made in the following manner: The candidate not more than seventy-five days before the municipal election in November shall file with the registrar a declaration of his candidacy in the form prescribed by the registrar for all candidates including statements of his qualifications not to exceed one hundred words subscribed by him before the registrar. The registrar shall forthwith certify to the said subscription and its date and retain and file the declaration. The candidate shall pay to the registrar at the time of filing his declaration of candidacy a sum equal to two percent (2%) of the current annual salary for the office for which he is a candidate. In lieu of such filing fee a candidate may submit to the registrar signatures of voters registered in San Francisco as provided in the general laws of this state. After said declaration shall have been signed, certified and filed, and not later than sixty days before the election each candidate shall file with the registrar, on forms published by him, not less than twenty nor more than thirty sponsors, who are electors qualified to vote at the said municipal election and who shall sign and certify under the penalty of perjury to the qualifications of said candidate.

In the event the registrar shall refuse to file such declaration of candidacy, petition in lieu of filing fee or certificate of a sponsor thereof, he shall forthwith designate in writing on the declaration, petition or certificate the defect thereof, or other reason for refusing to file the same and shall return the same to party tendering it. No defect in any declaration, petition or certificate presented to the registrar shall prevent the filing of another declaration, petition or certificate within the period allowed for presenting the declaration, petition or certificate. The name of every candidate who has been duly and regularly nominated shall be placed on the ballot under the title of the office for which he is a candidate provided that a candidate whose nomination has been completed, may, not less than fifty days before a municipal election, withdraw as a candidate by filing with the registrar his withdrawal naming the office: such withdrawal must be signed and sworn to by the person withdrawing.

The name of every municipal candidate who has been nominated for an office to be elected throughout the city and county as hereinbefore provided shall be placed on the ballot in accordance with the general laws of the state under the heading of the office for which said candidate has been nominated in the following manner: the name of the candidate highest on the list of candidates for any particular office shall be printed last on the ballot under the proper heading for said office in the lowest numbered assembly district in the city and county. Thereafter, in each succeeding assembly district the name of the candidate appearing first for said office in the last preceding assembly district shall be placed last and the order of the names of the other candidates for said office shall remain unchanged.

In the event that the number of candidates in any group shall exceed the number of assembly districts in the city and county then the total number of candidates in such group shall be divided by the number of assembly districts and the quotient of said division, if an integral number, or if it be a fractional number, then the next highest integral number shall be the number of candidates to be taken from the beginning of the list of said candidates and placed at the end of said list of candidates in each succeeding assembly district.

Immediately under the name of each candidate and not separated therefrom by any line may appear at the option of the candidate one of the following designations:

(a) Words designating the city, county, district or state office which the candidate then holds. Such designations shall not include a party affiliation of the candidate.

(b) If the candidate be a candidate for the same office which he then holds and only in that event the word "incumbent".

(c) The profession, vocation or occupation of the candidate in not more than nine words.

In all cases words so used shall be printed in eightpoint roman boldface capitals and lower-case type.

No incumbent shall have any further preference in the location of his name on said ballot unless the same is permitted by this section.

The registrar shall preserve in his office for a period of four years all

candidates declarations, petitions and all sponsors certificates filed in accordance with this section.

Certified to be a true copy by John L. Molinari, President, Board of Supervisors and Gilbert H. Boreman, Clerk, Board of Supervisors.

Date of Special Election: August 19, 1980.

Charter Chapter 19—City of Pasadena

Amendments to the Charter of the City of Pasadena

[Filed with the Secretary of State October 10, 1980]

Section 705 of the Charter is amended to read as follows:

Section 705. **BALLOTS FOR PRIMARY ELECTION.** The Secretary of the Board of Education shall cause ballots to be printed and numbered and bound. Each ballot shall contain:

1. the following caption,

PRIMARY NOMINATING ELECTION
(Insert name of Pasadena school district)

(Insert date thereof)

2. the following instruction,

to vote, stamp a cross opposite the name of the candidate, except when the name of the candidate is written in by the voter.

3. the list of candidates and the respective numbered offices.

4. a blank space underneath the printed names of candidates for each office wherein the voter can write the name of any candidate whose name is not printed on the ballot, and for whom he wishes to vote.

For the purpose of the primary nominating election and the general election each numbered office of a member of the Board of Education shall be deemed to be a separate office, and shall appear on the ballot in numerical sequence.

Section 709 of the Charter is amended to read as follows:

Section 709. **MEETINGS OF BOARD OF EDUCATION.** The members of the Board of Education shall enter upon the discharge of their duties on the first Monday in May after their election, and the Board of Education shall meet upon said day and annually thereafter and organize by electing one of their number President, whose term of office shall be one year. The Board of Education shall determine the rules of its proceedings. Any vacancy occurring on the Board of Education shall be filled by the remaining members of the said Board, and if there be no members, then by the City Board of Directors.

Section 710 of the Charter is repealed.

Section 605 of the Charter is amended to read as follows:

Section 605. **ACTING CITY MANAGER.** The Board shall provide, by ordinance, for the designation and powers and duties of an acting City Manager who shall act as City Manager where the City Manager is absent

or disabled.

Section 606 of the Charter is repealed.

Section 1001 of the Charter is amended to read as follows:

Section 1001. **CONTRACTS.** All contracts shall be in writing, and shall be executed in the name of the City of Pasadena by an officer or officers authorized to sign the same. All contracts shall be approved as to form by the City Attorney before the execution thereof.

All contracts shall be approved by the Board except contracts under \$10,000.

Section 1002 of the Charter is amended to read as follows:

Section 1002. **CONTRACTS REQUIRING COMPETITIVE BIDS.**

Except as otherwise provided in this charter, no contract for supplies, material, labor, or other valuable consideration, to be furnished to the City shall be authorized by the Board except with the lowest and best bidder after competitive bidding. The Board may reject any and all bids.

Competitive bidding shall not be required under this Charter for:

(A) Labor or services rendered by any City officer or employee.

(B) Labor, material, supplies or services furnished by one city department to another city department.

(C) Contracts for labor, material, supplies, or services available from only one vendor.

(D) Contracts for labor, material, supplies, or services in the gross amount of \$75,000 or less.

(E) Contracts relating to the acquisition of real property.

(F) Contracts for professional or unique services.

(G) Contracts for labor, material, or supplies for actual emergency work.

(H) Contracts with other governmental entities or their contractors for labor, material, supplies, or services.

Section 1005 of the Charter is amended to read as follows:

Section 1005. **SALE OF PROPERTY.** The Board shall provide, by ordinance, for uniform methods for the sale or exchange of real and personal property not needed by the City.

Certified to be a true copy by Jo Heckman, Chairman of the Board of Directors of the City of Pasadena and Harriett C. Jenkins, City Clerk.

Date of Special Election: June 3, 1980.

Charter Chapter 20—City of Alameda

Amendments to the Charter of the City of Alameda

[Filed with the Secretary of State October 15, 1980]

Section 19-2 is amended to read:

Sec. 19-2. A General Municipal Election shall be held biennially on a day specified therefor by general law, or, if a different date would permit

consolidation with another government agency's election, on a date set by resolution of the City Council, in each odd numbered year. All other municipal elections shall be Special Municipal Elections. A Special Municipal Election may be called by ordinance or by resolution of the Council.

Certified to be a true copy by C. J. Corica, Mayor and Deen Speegle, City Clerk.

Date of Special Municipal Election: June 3, 1980.

Charter Chapter 21—City of Oakland

Amendments to the Charter of the City of Oakland

[Filed with the Secretary of State October 27, 1980]

Section 203 of the Charter of the City of Oakland is amended to read as follows:

SECTION 203: Nomination and Election of Councilmembers.

Seven Councilmembers shall be nominated from districts and one shall be nominated at large. The Councilmember-at-large shall be nominated and elected by the qualified electors of the City at large. The District Councilmembers shall be nominated and elected by the qualified electors of their respective districts. The districts shall be as they exist upon the taking effect of this section, until revised by ordinance. In the year 1984, and every six years thereafter, and whenever any substantial territory is annexed to or consolidated with the City, the Council shall form new districts not exceeding seven. Districts shall be composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable. No change in the boundary of a district shall operate to exclude an incumbent from office before the expiration of the term for which he was elected or appointed.

Sections 618(7) (d): 618(7) (f): 618(7) (r): 618(7) (s): of the Charter of the City of Oakland is amended to read as follows:

SECTION 618(7) (d): Interest. Bonds shall bear interest payable at such periods as may be fixed by the Board, at a rate or rates to be established at the time of the sale of the bonds by the Board.

SECTION 618(7) (f): Redemption. Bonds may be callable upon such terms and conditions, at the option of the Board or by operation of any sinking fund, and upon such notice as the resolution of issue shall prescribe and upon payment of such premium as may be fixed in the resolution of issue. No bond shall be subject to call or redemption prior to its fixed maturity date, unless the right to exercise such call is expressly stated on the face of the bonds.

SECTION 618(7) (r): Sale of Revenue Bonds. Notice inviting sealed bids shall be given in such manner as the Board may prescribe prior to any sale of revenue bonds. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are

received or if the Board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the Board may reject all bids received, if any, and either readvertise or sell the bonds at private sale. The Board may fix terms and conditions for the sale or other disposition of any issue or series of bonds and may provide that bonds shall be sold on the basis of the lowest net interest cost to the Board. The Board may sell bonds at a price below the principal amount thereof, but no bond may be sold at a price below ninety (90) per cent of the principal amount of the bond.

SECTION 618(7) (s): Payment of Incidental Expenses and Interest and Creation of Funds from Proceeds of Sale of Revenue Bonds. All costs and expenses incidental to the issuance and sale of revenue bonds, including the cost of preparation of the revenue bonds, and coupons, the cost of all surveys, of preparation of plans and specifications, of all architectural, engineering, inspection, legal, financial and economic consultant's, trustee's and fiscal agent's fees, the creation of a bond reserve fund, the creation of a working capital fund, and bond interest estimated to accrue during the period of acquisition or construction of a project and for a period of not to exceed three (3) years thereafter, and the payment of the principal and interest on any notes issued pursuant to Section 618(13) in anticipation of the sale of bonds, all as provided for in the resolution of issue, may be paid out of the proceeds of sale of the revenue bonds.

Section 618(11): of the Charter of the City of Oakland is amended to read as follows:

SECTION 618(11): Incurring Indebtedness.

In addition to all other powers herein granted to it and notwithstanding any other provision of this Section 618, the Board is authorized: (a) from time to time to incur indebtedness for the purpose of the acquisition, construction, completion or improvement of any structure or facility which the Board is authorized to develop, construct, reconstruct, alter, repair, maintain, equip or operate pursuant to Section 606, and to lease such structure or facility to any person, subject to the limitations of this Section; provided that no such indebtedness shall constitute a debt, liability or obligation of the City of Oakland, that each such indebtedness shall be repaid exclusively from the income and revenue referred to in this clause (a), and that the Board shall provide not later than the date on which each such indebtedness is incurred for payment in full of the principal of and interest on such indebtedness by a pledge of all or any portion of the gross income derived or to be derived by the Board from the lease of such structure or facility and of all or any portion of any other income and revenue then or thereafter under control of the Board as shall be legally available for such purpose (all hereinafter in this Section referred to as "the pledged income and revenue"); (b) for the purpose of paying the principal of and interest on such indebtedness, to assign to any person all or any portion of the pledged income and revenue; and (c) notwithstanding the provisions of Section 617(3), to deposit the assigned portion of the pledged income and revenue in a special fund other than the Port Revenue Fund provided for in said Section 617(3), which said special fund (i) may be held or maintained by the Board or by the assignee of the

assigned portion of the pledged income and revenue and (ii) shall be used and applied by the Board or such assignee only to pay the principal of and interest on such indebtedness. Any pledged income and revenue remaining in any such special fund after payment in full of the principal of and interest on the indebtedness for which said special fund was created shall be deposited by the Board in said Port Revenue Fund.

Any lease executed by the Board pursuant to this Section shall be for a term of not to exceed 50 years and shall be made by the Board only after complying with the provisions of Section 609 of this Charter. Any such lease may provide that all or any part of the cost of maintenance of the leased structure or facility shall be paid by the lessee thereof or by the Board, and to the extent that such cost is to be paid by the Board, that such payment shall be made either from gross income to the Board from such lease or from any other legally available funds of the Board.

Any indebtedness incurred by the Board pursuant to this Section shall (1) be evidenced by contract or other written instrument, including certificates of indebtedness, which may be made or issued by the Board and sold or assigned in such manner as the Board shall determine for the principal amount thereof or at a price below the principal amount without complying with any of the provisions of Section 610 of this Charter, provided that no such indebtedness shall be sold at a price below ninety (90) per cent of the principal amount thereof, (2) be signed by the President of the Board and approved by a resolution of the Board, (3) bear interest at such rate or rates, payable annually or more often, as shall be provided by the Board at the time such indebtedness is incurred and (4) be paid in not to exceed 50 years from the date on which it is incurred on such terms and conditions and subject to such right of payment of all or any part of such indebtedness prior to maturity as shall be provided by the Board at the time such indebtedness is incurred; provided, that the Board may fix a date not more than five (5) years from the date of incurring any such indebtedness as the date of payment of the first installment of the principal thereof and that beginning on such date not less than 1/50 of the principal amount of such indebtedness shall be paid annually and the entire principal amount thereof shall be paid in not to exceed 50 years from the date on which it is incurred.

The term "person" as used in this Section means any individual, firm, association, private or public corporation, public district or political subdivision of the State of California, the State of California, the United States of America, or any agency or authority of any thereof.

Section 618(13): of the City of Oakland is amended to read as follows:

SECTION 618(13): Revenue Bond Anticipation Notes.

In addition to all other powers therein granted to it and notwithstanding any other provision of this Section 618, the Board is authorized to issue notes, on a negotiated or a competitive bid basis, maturing within a period not to exceed two years, in anticipation of the sale of bonds duly authorized pursuant to Section 618(7) at the time such notes are issued. Such notes and the resolution providing for the issuance of such notes may contain any provision, condition or limitation which a bond, or any resolution providing for the issuance of such bond, may contain. The proceeds

from the sale of such notes shall be used only for the purposes for which the bonds were authorized.

All notes issued pursuant to this Section 618(13) and any renewal thereof shall be payable at a fixed time, except that in the event that the sale of the bonds shall not have occurred prior to the maturity of the notes issued in anticipation of the sale, the Board shall, in order to meet the notes then maturing, issue renewal notes for such purpose. No renewal of a note shall be issued after the sale of bonds in anticipation of which the original note was issued. There shall be only one renewal of any note issued pursuant to this Section 618(13), and such renewal note shall mature within a period not to exceed two years. The principal of, and interest on, such notes may be paid from such funds as may be legally available therefor. If such notes, or any portion thereof, have not been previously paid, they shall be paid from the proceeds of the next sale of bonds in anticipation of which the notes were issued.

Certified to be a true copy by Lionel J. Wilson, Mayor and Arrece Jameson, City Clerk.

Date of Special Municipal Election: June 3, 1980.

Charter Chapter 22—City of Modesto

Amendments to the Charter of the City of Modesto

[Filed with the Secretary of State November 20, 1980]

Section 300 of the Charter is amended to read as follows:

SECTION 300. REGULAR MUNICIPAL ELECTIONS. Regular Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in March of each odd numbered year until the year 1983. Thereafter they shall be held biennially on the first Tuesday after the first Monday in November of each odd numbered year commencing with the year 1985.

Section 501 of the Charter is amended to read as follows:

SECTION 501. ELECTED AT LARGE. The Mayor and Councilmen shall be elected at the regular municipal election on a general ticket from the City at large.

Section 603 of the Charter is amended to read as follows:

SECTION 603. VICE MAYOR. In odd numbered years, at the second meeting of the Council following the election of a member to the Council, except members elected at special elections, and in even numbered years at the regular Council meeting held most closely one year thereafter, the Council shall designate as Vice Mayor the member of the Council who has the greatest seniority and who has not previously served as Vice Mayor or for whom the longest period of time has lapsed since previously being eligible to be designated as Vice Mayor. The member of

the Council so designated shall serve as Vice Mayor until a successor is designated as provided above. The Vice Mayor shall act as Mayor during the absence or inability of the Mayor to act. In the case of the temporary absence or disability of both the Mayor and the Vice Mayor, the Council shall designate one of its members to act as Mayor Pro Tempore. If a vacancy shall occur during the term of a Vice Mayor, the Council shall designate the next eligible member of the Council to fill the remainder of the term. A member of the Council so designated to fill a vacancy shall remain eligible to be designated as Vice Mayor for the succeeding full term. Seniority shall be determined on the basis of continuous service as a member of the Council. If members of the Council have the same amount of service, the order in which such members shall be designated as Vice Mayor shall be determined by lot. A member of the Council may decline to be designated as Vice Mayor for a specific term. For purposes of determining future eligibility for designation as Vice Mayor, a member of the Council who so declines a term as Vice Mayor shall be considered as having served said term.

Section 700 of the Charter is amended to read as follows:

SECTION 700. COUNCILMEN. TERM OF OFFICE. Except as otherwise provided in this Charter, the members of the Council shall hold office for a term of four (4) years from and after the first Tuesday following their election. The members of the Council in office at the time this Charter takes effect shall continue in office until the expiration of their terms or until their successors are elected and qualified.

Three (3) Councilmen shall be elected at the regular municipal election in 1963 and at each regular municipal election thereafter.

A Mayor shall be elected at the regular municipal election in 1963 and at each alternate regular municipal election thereafter.

Ties in voting among candidates for any office shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. Each member of the Council shall have the right to vote on all matters coming before the Council.

Each elective office shall be deemed a separate office to be filled at any election. The City Clerk shall designate each such elective office by an appropriate descriptive designation. No candidate shall file for more than one elective office, and no incumbent member of the Council shall run for a seat other than that which he holds except that any incumbent member of the Council may run for the seat of Mayor, and an incumbent Mayor may run for the seat of Mayor or for any other seat on the Council. Such designation shall be used on all nomination papers; certificates of election and all election papers referring to the office. The person receiving the highest number of votes for each designated office shall be declared elected. After election, the designation shall have no further significance except for the purpose of designating incumbency.

Section 701 of the Charter is amended to read as follows:

SECTION 701. ELIGIBILITY. No person shall be eligible to be nominated for or to hold office as a member of the Council or as Mayor unless he is and shall have been for at least thirty (30) days preceding his nomination or appointment a resident and registered elector of the City

of Modesto or of territory annexed thereto.

Section 702 of the Charter is amended to read as follows:

SECTION 702. VACANCIES. If a vacancy shall occur in the office of Mayor or Councilman, the Council shall forthwith appoint a person to fill such vacancy. Said appointee shall possess such qualifications for eligibility as are set forth in Section 701 of this Article and shall hold office until his successor is duly elected and qualified. Such successor shall be chosen at the next regular municipal election, or as otherwise may be required by recall proceedings instituted involving the office of Mayor or a Councilman.

In the event that the Council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy.

Section 703 of the Charter is amended to read as follows:

SECTION 703. COMPENSATION. The Mayor and members of the Council shall each receive monthly compensation in accordance with the schedule of compensation set forth in Section 36516 of the Government Code of the State of California, as the same now exists or may hereafter be amended, and without adoption of an ordinance; provided, however, that said monthly compensation shall be reduced by one-sixth for each regular meeting of the Council, other than adjourned regular and special meetings, not attended each month, unless absent on official duty with the consent of the Council. Said monthly compensation shall be paid commencing at the time this amendment to the Charter takes effect; thereafter, changes in said monthly compensation shall be governed by Section 36516.5 of the Government Code of the State of California. The Mayor and members of the council shall also receive reimbursement for expenses incurred while performing official duties of their office.

Section 716 of the Charter is amended to read as follows:

SECTION 716. REQUIREMENTS OF ORDINANCES. EMERGENCY ORDINANCES. With the sole exception of ordinances which take effect upon adoption referred to in this Article, no ordinance shall be passed by the Council on the day of its introduction nor within five (5) days thereafter nor at any other time than at a regular or adjourned regular meeting, nor until its publication at least once in full in the official newspaper of the City of Modesto at least two (2) days before its adoption. As an alternative method of publication, the Council may order copies of any ordinance to be posted at least two (2) days prior to its adoption in at least three (3) prominent and distinct locations in the City together with a single publication in such official newspaper of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of such ordinance are posted. In case of an amendment being made to an ordinance before the final adoption of the ordinance, it must in like manner be published in full as amended at least one (1) day before its adoption as amended. The correction of typographical or clerical errors shall not constitute an amendment within the meaning of the foregoing sentence.

Section 801 of the Charter is amended to read as follows:

SECTION 801. POWERS AND DUTIES. The City Manager shall be

head of the Administrative Branch of the City government. He shall be responsible to the Council for the proper administration of all affairs of the City and to that end, subject to the personnel provisions of this Charter, he shall have power and shall be required to:

(a) Appoint and, when necessary for the good of the service, discipline and remove all officers and employees of the City except as otherwise provided by this Charter, and except as he may authorize the head of any department or office to appoint or remove subordinates in such department or office.

(b) Prepare the budget annually and submit it to the Council and be responsible for its administration after its adoption by the Council.

(c) Prepare and submit to the Council within ninety (90) days of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.

(d) Review procedures relating to the assessment, levy and collection of ad valorem property taxes and make recommendations regarding the same to the Council if deemed appropriate.

(e) Establish a centralized purchasing system for all City offices, departments and agencies.

(f) Establish and enforce specifications for supplies, materials and equipment required by the City.

(g) Cause all supplies purchased by the City to be inspected and a determination made that the same comply with specifications.

(h) Prepare rules and regulations governing the contracting for, purchasing, storing, inventory, distribution or disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the Council for its adoption by ordinance. Preference shall be given to the purchase of supplies, materials and equipment from local merchants, quality and price being equal.

(i) Enforce the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.

(j) Keep the Council advised of the financial conditions and future needs of the City and make such recommendations on any matter as may to him seem desirable.

(k) Make and execute contracts on behalf of the City involving budgeted or appropriated expenditures which do not exceed the amount specified in Section 1307 of this Charter.

(l) Appoint advisory boards, without compensation, to assist him in the performance of his duty, if he deems it necessary.

(m) Interchange employees between or among departments if he deems it proper so to do.

(n) Immediately upon taking office, and annually thereafter, inventory and place a value on all real estate, buildings, furniture and fixtures, supplies and movable property of every kind and nature belonging to the City; and to require each officer or department head to inventory the same or any portion thereof. One copy of such inventory shall be filed with the Council and one with the auditor.

(o) Be responsible for the custody and control of all City property, the custody and control of which has not otherwise been provided for by this

Charter.

(p) Perform such other duties as may be prescribed by this Charter or required of him by the Council not inconsistent with this Charter.

(q) Sign all contracts, deeds and other documents on behalf of the City when authorized to do so by the Council or by this Charter.

The City Manager shall have the authority to transfer equipment and supplies between departments, and with the approval of the Council, sell obsolete, unused or surplus personal property of the City.

The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote. The Council shall appoint one of the other officers of the City to serve as Manager Pro Tempore during any absence or disability of the City Manager.

The Council shall have the right to instruct the City Manager in matters of policy and any action, determination or omission of the City Manager shall be subject to review by the Council, but no such action, determination or omission shall be overruled or modified by a vote of less than four-sevenths ($\frac{4}{7}$) of the members of such Council.

Section 900 of the Charter is amended to read as follows:

SECTION 900. OFFICERS AND EMPLOYEES GENERAL. The officers of the City of Modesto shall consist of a Mayor, the Council, a City Manager, a City Attorney, a City Clerk, a City Auditor and such other or subordinate officers, assistants, deputies and employees as the Council may deem necessary to provide by ordinance or resolution.

The City Attorney, the City Clerk, and the City Auditor shall be appointed by and may be removed by the affirmative votes of four (4) members of the Council, provided, however, that neither the City Attorney, the City Clerk nor the City Auditor shall be removed from office during or within a period of ninety (90) days next succeeding the election of a member of the Council. The purpose of this provision is to allow any newly elected member of the Council to observe the actions and abilities of these officers in the performance of the powers and duties of the respective offices.

The City Manager shall be appointed and removed as provided by Section 800 of this Charter. Except as otherwise provided in this section all other officers and department heads of the City shall be appointed by the City Manager and shall serve at the pleasure of the City Manager.

The City Auditor shall have such powers and be required to perform such duties, consistent with the provisions of this Charter, as may be required by the Council.

Section 908 of the Charter is amended to read as follows:

SECTION 908. NEPOTISM. No person shall be appointed to a salaried position with the City of Modesto who is a relative by blood or marriage within the second degree of the Mayor, a member of the Council, the City Manager or the officer of the City exercising the appointive power.

Section 1108 of the Charter is amended to read as follows:

SECTION 1108. BOARD OF PERSONNEL APPEALS. There shall be a Board of Personnel Appeals consisting of three (3) members.

Section 1109 of the Charter is amended to read as follows:

SECTION 1109. BOARD OF PERSONNEL APPEALS, POWERS AND DUTIES. The Board of Personnel Appeals shall have the power and duty to:

(a) Select a hearing officer to hear the appeals of any person in the classified service relative to any suspension, demotion or dismissal.

(b) Act in an advisory capacity to the City Manager on such personnel matters as may be referred to it by the City Manager.

Section 1110 of the Charter is amended to read as follows:

SECTION 1110. CULTURE COMMISSION. There shall be a Culture Commission consisting of seven (7) members, five (5) of whom shall be registered electors of the City, and two (2) of whom shall live outside the City but shall be registered electors of Stanislaus County. The Commission shall have the power and duty to:

(a) Act in an advisory capacity to the Council and the City Manager in all matters pertaining to art, literature, music and other cultural activities;

(b) Formulate and recommend annually to the Council a program relating to art, literature, music and other cultural activities;

(c) Promote the preservation of historic sites, landmarks, documents, paintings and other objects associated with the history of the City and its area, and develop educational interest in all such historical matters;

(d) Act in an advisory capacity to the Council, City Manager and Director of any Museum or Cultural Center that may be established by the Council.

Section 1111 of the Charter is amended to read as follows:

SECTION 1111. HUMAN RELATIONS COMMISSION. There shall be a Human Relations Commission consisting of seven (7) members, five (5) of whom shall be registered electors of the City, and two (2) of whom shall live outside the City but shall be registered electors of Stanislaus County. The Commission shall have the power and duty to:

(a) Act in an advisory capacity to the City Council in matters pertaining to human relations and behavior.

(b) Formulate and recommend annually to the Council a program for furthering human relations in the community.

(c) Perform such other duties with respect to human relations and behavior as the City Council may prescribe by ordinance or resolution.

Section 1203 of the Charter is amended to read as follows:

SECTION 1203. POLITICAL ACTIVITIES PROHIBITED. No employee of the City shall, during the hours the employee is working for the City, take an active part in any municipal or other political campaign, nor seek or accept contributions for or against any candidate or issue therein, nor seek or accept signatures to any petition for or against any such candidate or issue. Nothing in this section shall be construed to prevent any such employee from seeking election or appointment to public office.

Section 1205 of the Charter is amended to read as follows:

SECTION 1205. HEARING OFFICERS. An appeal of any person in the classified service relative to any suspension, demotion or dismissal, where the right of appeal is granted by the Personnel System of the City of Modesto, shall be heard by a hearing officer, who shall be selected by

the Board of Personnel Appeals. The findings and recommendations of a hearing officer shall be made to the City Manager who shall make the final determination relative to any suspension, demotion or dismissal.

Hearing officers shall have the power to administer oaths and affirmations in any appeals pending before them. Hearing officers shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before them. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of this State.

Section 1302 of the Charter is amended to read as follows:

SECTION 1302. ANNUAL BUDGET. On such date in each year as shall be fixed by the Council, the City Manager shall send to the Council a careful estimate, in writing, of the amounts of expenditures required for the business and proper conduct of the various departments, offices, boards and commissions of the City, over which he has control during the next ensuing year. Said estimate shall be in such detail as the Council shall specify. The City Manager shall also at said time submit to the Council an estimate of the amount of income from fines, licenses, and other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation.

Section 1304 of the Charter is amended to read as follows:

SECTION 1304. ADOPTION OF THE BUDGET. After the conclusion of the public hearing the Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and thereafter it shall adopt the budget with revisions, if any. Upon final adoption, the budget shall be in effect for the ensuing fiscal year.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the various departments or activities therein described. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered unless they shall have been designated in the budget as continuing appropriations.

At any meeting after the adoption of the budget, the Council may amend or supplement the budget by resolution.

Section 1500 of the Charter is amended to read as follows:

SECTION 1500. BOARD OF EDUCATION. The control, management and administration of the public schools of the City of Modesto, and the territory that is now or may hereafter be annexed thereto for school purposes, in accordance with the Constitution and general laws of the State of California, are hereby vested in a Board of Education. In all matters not specifically provided for in this Article, the Board shall be governed by the provisions of the general law relating to such matters and shall be vested with all the powers and charged with all the duties provided by the laws of the State for city boards of education. The Board of Education shall be the governing body of the Modesto City School District of Stanislaus County and the Modesto High School District of Stanislaus County. The Board of Education shall consist of seven (7) members who

may receive compensation pursuant to the applicable provisions of the Education Code of the State of California. The members of the Board of Education shall be elected at large from the territory within the boundaries of the school district or districts which are under the jurisdiction of the Board. The members of the Board of Education shall hold office for a period of four (4) years from and after the first Tuesday following the Regular Municipal Election at which they are elected and continuing until their successors are elected and have qualified. No persons shall be eligible to be nominated for or to hold office as a member of the Board of Education unless he is and shall have been for at least thirty (30) days preceding his nomination or appointment a resident and registered elector of the school district or districts which are under the jurisdiction of the Board of Education.

If a vacancy shall occur on the Board of Education, the City Council shall forthwith cause an election to be held to elect a successor to fill such vacancy, unless such vacancy occurs between one hundred thirty (130) days and sixty-eight (68) days of a regular municipal election in which event the successor shall be chosen at such regular municipal election. The successor elected to fill a vacancy shall serve for the remainder of the unexpired term of the office to which elected and continuing until a successor is elected and has qualified. The members of the Board of Education shall be subject to recall as provided in this Charter.

All territory included within the limits of any school district or districts which are under the jurisdiction of the Board of Education, but not within the City limits, shall be deemed a part of the City for the purpose of holding municipal elections and shall constitute one or more separate election precincts, and the qualified electors therein shall vote only for members of the Board of Education and on questions submitted to a vote of the people at special or regular elections pertaining to school matters.

The members of the Board of Education in office at the time this amendment to the Charter takes effect shall continue in office until the expiration of their terms. Their successors shall be elected at the regular municipal election to be held during the year of each said respective terms expires.

Section 1603 of the Charter is amended to read as follows:

SECTION 1603. DEFINITIONS. Unless the provisions or the context otherwise require, as used in this charter:

- (a) "Shall" is mandatory and "may" is permissive;
- (b) "City" is the City of Modesto, and "department," "board," "commission," "agency," "office," or "employee," is a department, board, commission, agency, officer or employee, as the case may be of the City of Modesto;
- (c) "Council" is the Council of the City of Modesto;
- (d) A "member of the Council" means any one of the seven (7) members of the Council, including the Mayor;
- (e) A "Councilman" means any one of the members of the Council other than the Mayor, and whenever used in this Charter shall be deemed to mean "Councilmember";
- (f) "County" is the County of Stanislaus;

(g) "State" is the State of California;

(h) "Newspaper of general circulation within the City" is as defined by Section 6000 of the Government Code of the State of California;

(i) "Public Utility or Service" as used in this Charter means the supply by the City to its inhabitants, or any portion thereof, with water, light, heat, power, transportation service or telephone, telegraph or wireless communication service, except that said term shall not include furnishing of sewer or sewage disposal services, drainage service, airport services or taxicab services; and

(j) "Election" is the day of the election.

Certified to be a true copy by Peggy Mensinger, Mayor and Norrine Coyle, City Clerk.

Date of Special Municipal Election: November 4, 1980.

Charter Chapter 23—City of Stockton

Amendments to the Charter of the City of Stockton

[Filed with the Secretary of State December 3, 1980]

Section 1 of Article VIII is amended to read as follows:

ARTICLE VIII, SECTION 1

SECTION 1. The Mayor and Vice-Mayor shall be elected by the electors of the entire City and shall hold such offices for a term of two years beginning December 1 next after their election and until their successors are elected and qualified.

On the first Tuesday after the first Monday in November, 1981, councilmembers from Districts 2, 3, 6, 8 and 9 shall be eligible to be a candidate for Mayor or Vice-Mayor. On the first Tuesday after the first Monday in November, 1983, councilmembers from Districts 1, 4, 5 and 7 shall be eligible to be a candidate for Mayor and Vice-Mayor.

At each subsequent general municipal election, councilmembers whose terms will not expire on the subsequent December 1 shall be eligible to be a candidate for Mayor or Vice-Mayor.

At said election for Mayor, the councilmember receiving the highest number of votes shall be elected to the office of Mayor, and the councilmember receiving the second highest number of votes shall be elected to the office of Vice-Mayor.

In the event the councilmember holding the office of Mayor or Vice-Mayor vacates or forfeits his or her office of councilmember, for any reason, or is recalled as a councilmember the office of Mayor or Vice-Mayor shall be automatically forfeited.

Notwithstanding other provisions of this Charter, any petition to recall the Mayor or Vice-Mayor shall be signed by qualified electors of the City equal in number to not less than twenty per cent (20%) of the entire votes cast by the electors of the City at the last preceding general election for

the recall of the Mayor or Vice-Mayor. Recall of the Mayor shall not operate as a recall of said person from the office of councilmember.

Section 8.1 is added to Article XXIII to read as follows:

ARTICLE XXIII, SECTION 8.1

SECTION 8.1. WITHDRAWAL OF BIDS

Notwithstanding any provisions contained in Section 8 of this Article to the contrary.

Any bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of bids only by written request for withdrawal of the bid filed with the City Clerk. The request shall be executed by the bidder or his duly authorized representative. The withdrawal of a bid does not prejudice the right of the bidder to file a new bid. Whether or not bids are opened exactly at the time fixed in the public notice for the opening of bids, a bid will not be received after that time, nor may any bid be withdrawn after the time fixed in the notice for the opening of bids.

Section 9.1 is added to Article XXXII to read as follows:

ARTICLE XXXII, SECTION 9.1

**APPOINTMENTS TO VACANT POSITIONS,
CERTIFICATION FROM LISTS**

SECTION 9.1. Notwithstanding any provisions of Section 9 of this Article to the contrary, whenever an entrance position in the classified service of the fire department becomes vacant, the appointing authority, if it is desired to fill the vacancy, shall make requisition upon the Commission for the names and addresses of the persons eligible for appointment thereto. The Commission shall certify two more names than the number of vacancies of those individuals standing highest on the existing eligible list. The Chief of the Fire Department may select any one of the three eligibles so certified to fill the vacancy. On original appointment, the appointing authority shall appoint such persons to such vacant positions on probation.

Section 9.2 is added to Article XXXII, to read as follows:

ARTICLE XXXII, SECTION 9.2

**APPOINTMENT TO VACANT POSITIONS,
CERTIFICATIONS FROM LIST**

SECTION 9.2. Notwithstanding any provisions of Section 9 of this Article to the contrary, whenever an entrance position in the classified service of the Police Department becomes vacant, the appointing authority, if it is desired to fill the vacancy, shall make requisition upon the Commission for the names and addresses of the persons eligible for appointment thereto. The Commission shall certify two more names than the number of vacancies of those individuals standing highest on the existing eligible list. The Chief of the Police Department may select any one of the three eligibles so certified to fill the vacancy. On original appointment the appointing authority shall appoint such persons to such vacant positions on probation.

Section 44 is added to Article XXXII to read as follows:

ARTICLE XXXII, SECTION 44
EMERGENCY PROVISIONS

SECTION 44. The City Council shall have the power to suspend or waive any and all provisions of this Article in the event of an emergency. For the purposes of this Section, emergency is defined as any circumstance or condition which in the determination of the City Council, may adversely affect the public health, safety, welfare or morals of the City of Stockton. The powers granted to the City Council by this Section shall remain in effect for a period of not to exceed ninety (90) days or the date upon which the emergency terminates, whichever period is less.

Certified to be a true copy by Daniel A. O'Brien, Mayor and John M. Jarrett, City Clerk.

Date of Special Municipal Charter Amendment Election: November 4, 1980.

Charter Chapter 24—City of Los Angeles

Amendments to the Charter of the City of Los Angeles

[Filed with the Secretary of State December 8, 1980]

The Charter of the City of Los Angeles is hereby amended by amending Subsection (6) of Section 3 thereof to read as follows:

(6) Except as in this Charter provided, no public utility owned by the City shall be sold, leased or otherwise transferred without the assent of two-thirds of the qualified voters of the City voting on the proposition at an election at which such proposition shall be submitted; provided, however, that with the authorization or approval of the City Council by ordinance, the Board of Water and Power Commissioners shall have the power and authority to sell, lease, transfer or dispose of the public utility water distribution facilities owned by the City of Los Angeles located in the communities of Big Pine, Lone Pine, Independence and Laws in Inyo County, California, together with sufficient water or water rights to supply the service areas of such communities, to public agencies or utilities in such communities, without the necessity of procuring the assent of two-thirds of the qualified voters of the City.

The Charter of the City of Los Angeles is hereby amended by adding Section 38 thereto to read as follows:

Sec. 38. Municipal Housing Finance Fund.

(a) There is hereby established in the City Treasury a Municipal Housing Finance Fund. All monies derived from the sale of revenue bonds authorized by Subsection (b) hereof and such other monies as the Council may from time to time direct, other than the proceeds of taxes levied by the City of Los Angeles, shall be deposited into the Municipal Housing Finance Fund. No money shall be expended from the Municipal Housing Finance Fund except for the purposes set forth in Subsection (b) hereof.

(b) The City Council may issue revenue bonds from time to time and

the proceeds therefrom may be used for the purpose of acquiring, developing, constructing and rehabilitating, and for the purpose of making loans for the financing or refinancing of the acquisition, development, construction and rehabilitation of, single family and multi-family residential housing developments, including low and moderate-income housing developments and market rate housing developments. The revenue bonds shall be issued in accordance with a procedure established by ordinance. The procedure may, but need not, conform to any or all of the requirements of Subsection (4) of Section 3 of this Charter. The City may cooperate with and receive aid from other agencies of government in accomplishing the purposes described in this Subsection (b), but shall make no contributions to the payment of interest or principal due on any such revenue bonds from taxes imposed by the City of Los Angeles. Money in the Municipal Housing Finance Fund not immediately needed for the purposes of this Subsection (b) may be deposited or invested in the same manner as other funds of the City, but interest earned on such money shall be credited to the Municipal Housing Finance Fund. The provisions of Section 382 shall not apply to the Municipal Housing Finance Fund.

(c) The City Council shall, by ordinance, provide for the authority to expend money in said Fund. The person with authority to expend shall be called the Municipal Housing Finance Fund Administrator, shall be appointed by the Mayor, with the concurrence of the City Council and shall be exempt from the provisions of Article IX. The Administrator shall report to the Mayor and to the City Council, or to a committee of the City Council should the City Council so direct, on a quarterly basis as to the progress of activities to carry out the purposes described in Subsection (b).

The Charter of the City of Los Angeles hereby is amended by adding Article XXXV thereto, which said Article is to read as follows:

ARTICLE XXXV

SAFETY MEMBERS PENSION PLAN

Sec. 520. Safety Members Pension Plan.

There is hereby created, established and adopted, separate and apart from the Fire and Police Pension System provided by Article XVII of this Charter, and the New Pension System provided by Article XVIII of this Charter, a pension system which shall be known as the "Safety Members Pension Plan", providing pension benefits for certain members of the Fire Department and of the Police Department of the City of Los Angeles and for certain other beneficiaries hereinafter designated.

Sec. 521. Definitions and Certain Conditions Governing the Provisions of this Article.

For the purposes of this Article and as used in the definitions hereunder, the following words and phrases shall have the meaning ascribed to them in this section, respectively, unless a different meaning is clearly indicated in the context.

- (a) "Shall" is mandatory and "may" is permissive.
- (b) "City" means the City of Los Angeles.
- (c) "Board" means the Board of Pension Commissioners of the City of Los Angeles.

(d) “Member of the Fire Department” shall be defined the same as in paragraph (e) of Section 190.02 of this Charter.

(e) “Member of the Police Department” shall be defined the same as in paragraph (f) of Section 190.02 of this Charter.

(f) “Department Member” means a person who is a Member of the Fire Department or of the Police Department.

(g) “Plan Member” means a person who is a Department Member and whose pension rights and benefits are governed by this Article and not by Article XVII or by Article XVIII of this Charter. Status as a Plan Member is limited by the provisions of Section 523.

(h) “Retired Plan Member” means a person who is a former Plan Member whose active status as a Department Member had been terminated and who is receiving a pension pursuant to this Article.

(i) “Qualified Surviving Spouse” means a person who is the widow or widower of a deceased Plan Member or Retired Plan Member and who has been married (1) to the Plan Member for at least one year prior to the date of his or her nonservice-connected death while a Plan Member, or (2) to the Plan Member as of the date of his or her service-connected death while a Plan Member, or (3) to the Retired Plan Member for at least one year prior to the effective date of his or her retirement upon a service pension or upon a nonservice-connected disability pension pursuant, respectively, to Section 530 or Section 531 (b), or (4) to the Retired Plan Member as of the effective date of his or her retirement upon a service-connected disability pension pursuant to Section 531 (a), provided, however, that such person shall be a Qualified Surviving Spouse only until he or she shall marry or die, whichever shall first occur.

(j) “Minor Child” means a person who is a child or an adopted child of a deceased Plan Member or a Retired Plan Member, provided, however, that such person shall be a Minor Child only until such person shall attain the age of eighteen (18) years or shall marry, whichever shall be the earlier.

A person may further qualify for the benefits provided for a Minor Child under the provisions of this Article until he or she reaches the age of twenty-two (22) years if such person is enrolled in school on a full-time basis as determined by the Board; provided, however, that such person’s marriage terminates entitlement to the benefits of a Minor Child.

(k) “Dependent Child” means a person who is a child of a deceased Plan Member or a deceased Retired Plan Member, who is not married and who, while under the age of twenty-one (21) years, had become disabled, either prior or subsequent to the date of death of such Plan Member or Retired Plan Member, from earning a livelihood for any cause or reason whatsoever, provided, however, that such person shall be a Dependent Child only until he or she shall cease to be disabled from earning a livelihood. Should disability cease before the age of twenty-two (22) years, the limitations set forth in paragraph (j) shall be applicable.

(l) “Dependent Parent” means a person who is a parent of a deceased Plan Member or a deceased Retired Plan Member and which parent is domiciled in the United States as of the date of death of such Plan Member or Retired Plan Member and to or for whom such deceased Plan Member

or deceased Retired Plan Member, during at least one (1) year immediately preceding his or her death, contributed one-half ($\frac{1}{2}$) or more of such Dependent Parent's necessary living expenses and who is unable to pay such expenses without the receipt of a pension, provided, however, that such person shall be a Dependent Parent only until he or she shall be able to pay his or her necessary living expenses.

(m) "Beneficiary" means a person, whether or not included in the foregoing definitions, who is receiving a pension pursuant to this Article.

(n) "Final Average Salary" means an amount equivalent to a monthly average of salary actually received during any twelve (12) consecutive months of service as a Plan Member as designated by the Plan Member. In the absence of such designation, the last twelve (12) consecutive months preceding the date upon which retirement would become effective shall be used as the basis for the calculation of Final Average Salary.

For the purposes of determining Final Average Salary, periods during which the Plan Member receives less than full salary on account of injury or illness, pursuant to any applicable ordinance of the City, shall be included in the calculation of Final Average Salary based upon the salary, including any length of service pay, special pay, assignment pay or hazard pay, the Plan Member would have received but for the injury or illness.

Included in the calculation of Final Average Salary shall be Length of Service Pay, Special Pay, Assignment Pay and Hazard Pay actually received during the twelve (12) consecutive months used to determine Final Average Salary. To the extent that Hazard Pay was not received during all or any part of the twelve (12) consecutive months used to determine Final Average Salary, then it shall be included in the calculation of Final Average Salary only if the Plan Member retires at the same rank as that occupied by him or her at a time when Hazard Pay was received during a period or periods other than the twelve (12) months used to determine Final Average Salary, and for each such completed twelve (12) month period during which the Plan Member served at that rank and received Hazard Pay, he or she shall be entitled to have included in the Final Average Salary ten percent (10%) of the Hazard Pay which would have been payable had the hazardous duty been performed during the period for which the Final Average Salary is calculated; provided, however, that the total amount includable in the Final Average Salary for Hazard Pay may not exceed 100 percent of the amount the Plan Member would have received had he or she been entitled to Hazard Pay during the entire twelve (12) month period utilized in the calculation of Final Average Salary.

Overtime compensation or payments of money to the member not designated as salary by an ordinance of the City shall not be considered for purposes of calculating Final Average Salary.

Notwithstanding any of the foregoing, if a Retired Plan Member were to be restored to active duty as a Department Member and thereby again were to become a Plan Member and if he or she again were to retire or to be retired without having performed his or her duties for at least one (1) year subsequent to such restoration, which year shall not include any time off from work by reason of any injury or illness which had been

caused by or contributed to by any injury or illness which had been sustained or suffered by him or her prior to such restoration, the Final Average Salary which shall be applicable to his or her later retirement shall be the Final Average Salary which had been applicable to his or her previous retirement.

Should a Plan Member not have completed twelve (12) consecutive months of service as a Plan Member, then and in that event only shall the Final Average Salary be calculated as a monthly average of all consecutive calendar months completed, and, if the Plan Member has completed less than one (1) month of total service as a Plan Member, the salary actually received shall be used to calculate its monthly equivalent.

(o) "Length of Service Pay" means any additional gross monthly pay which, by reason of length of service, shall be provided by ordinance.

(p) "Special Pay" means any additional gross monthly pay which, by reason of assignment to perform special duties other than hazardous duties, shall be provided by ordinance.

(q) "Hazard Pay" means any additional gross monthly pay which, by reason of assignment to perform helicopter duties, two-wheel motorcycle duties or any other hazardous duties, shall be provided by ordinance.

(r) "Assignment Pay" means any additional gross monthly pay which, by reason of assignment to perform special duties or hazardous duties, in a higher class, position, grade, code or other title than the lowest thereof within the Plan Member's permanent rank, shall be provided therefor by ordinance.

(s) "Year" means a period of twelve (12) months or, in aggregating partial years for purposes of determining Years of Service, means 365 days.

(t) "Years of Service" means and includes only those periods during or for which the Plan Member was a Department Member of the Fire Department or of the Police Department, or of both, and whether prior or subsequent to his or her becoming a Plan Member and subject to the limitations contained in Section 523 of this Article: (1) did or shall receive salary, whether in full or reduced amounts thereof; (2) did or shall receive either a service-connected disability pension or a nonservice-connected disability pension, whether pursuant to Articles XVII or XVIII of this Charter or pursuant to this Article, provided, however, that he or she was or shall be restored to active duty as a Department Member and did or shall perform his or her duties as such for at least one (1) year prior to again retiring or being retired pursuant to this Article, which year shall not include any time off from work by reason of any injury or illness which had been caused by or contributed to by any injury or illness which had been sustained or suffered by him or her prior to such restoration. The restored Plan Member, upon completing one (1) Year of Service following restoration, shall be eligible for such credit only to the extent that the length of service following restoration matches the period the disability pension was received; provided, however, that upon completing three (3) years of restored service, the restored Plan Member is eligible for credit for the entire period the disability pension was received; and provided further that a period during which a Plan Member was on a nonservice-connected disability pension may only be counted toward his or her Years

of Service if the Plan Member makes contributions therefor at the rate provided in Section 529 of this Article in accordance with the rules to be adopted by the Board; (3) is or shall become entitled, under any provision of general law or ordinance of the City, to credit toward retirement for periods of military service or military leave; (4) did or shall receive workers' compensation benefits for temporary disability as provided by general law on account of any injury or illness arising out of and in the course of employment; provided, however, that such period is made a part of the Plan Member's Years of Service only if the Plan Member has made contributions to the Safety Members Pension Plan in the manner prescribed by Board rule; (5) is or shall become entitled pursuant to any ordinance of the City providing compensation for injury on duty; and (6) had served as a member of the Fire and Police Pension System created in Article XVII or the New Pension System created in Article XVIII of this Charter, without having become eligible to service retirement benefits thereunder; provided, however, that such prior service as a member under provisions of Article XVII or XVIII does not entitle the Plan Member to a refund of contributions made on account of such previous service.

A Plan Member who has previously been a Plan Member and who has ceased to be such by virtue of his or her resignation or discharge and who subsequently again becomes a Plan Member, shall be entitled to service credit only if he or she has first redeposited with interest, any Plan Member contributions previously withdrawn by him or her, in the manner provided by the Board of Pension Commissioners.

(u) "Partial Year of Service" means any period mentioned in Subsection (t) of this section which is less than twelve (12) months.

Any such Partial Year of Service shall be calculated from the end of the Plan Member's last completed Year of Service to the end of the payroll period immediately prior to the date of his or her retirement and shall be counted as part of a Plan Member's Years of Service for his or her retirement upon a service pension hereafter granted or for a pension hereafter granted to his or her Qualified Surviving Spouse, Minor Child or children, Dependent Child or children or Dependent Parent or parents if he or she hereafter shall die while upon a service pension hereafter granted or while eligible for a service pension.

Sec. 522. Persons Not Entitled to Pensions.

Persons who were or are excluded from membership and entitlement to a pension under the provisions of Section 190.021 of the Charter shall likewise not be entitled to membership or pensions under the provisions of this Article and the provisions of said Section 190.021 are expressly incorporated herein by reference.

Sec. 523. Plan Members.

Each person who shall be appointed as a Department Member on or subsequent to the effective date of this Article shall become a Plan Member upon graduation by such person from training at the Police or Fire Academies or equivalent facility imparting basic training as a firefighter or police officer and maintained as such by the City of Los Angeles. Upon becoming a Plan Member, a person may elect to purchase Years of Service credit for the period of such training in accordance with rules to be

adopted by the Board of Pension Commissioners.

A person formerly a system member under the provisions of Articles XVII or XVIII of the City Charter whose membership had previously terminated by reason of resignation or discharge shall upon again being appointed as a Department Member become a Plan Member as of the effective date of such appointment. With respect to such person's entitlement to service credit, the definition of "Years of Service" elsewhere contained in this Article shall be controlling. Such person need not make back contributions on account of such former service and does not have any right to have contributions formerly made by him or her under the provisions of Article XVII or XVIII refunded at any time.

Sec. 524. Administration.

The Safety Members Pension Plan shall be under the exclusive management and control of the Board which, in its exercise thereof, may make use of the same facilities which it uses or shall use to administer the Fire and Police Pension System provided by Article XVII of this Charter and the New Pension System provided by Article XVIII of this Charter. The Board shall keep in convenient form, in addition to its other records and accounts, such information and data as shall or may be necessary or desirable for the making of the actuarial valuations and investigations which are required for the purpose of this Article.

The Board shall have the power and authority to describe the various forms which shall be used with respect to any of the provisions of this Article, and to adopt any rules and regulations to effectuate the purposes of this Article and those which, in its discretion, are necessary or desirable.

Each action of the Board, whether by order, motion, resolution or otherwise, shall be adopted by a vote of at least four (4) of its members, except where the provisions of any section of this Article require that a vote of more than four (4) members shall be necessary to take such action.

Sec. 525. Funds of the Safety Members Pension Plan.

Two entirely separate and distinct funds hereby are created and established for the payment of pension benefits pursuant to this Article, for the payment of certain other benefits as may be authorized by ordinance pursuant to the enabling provisions of this Article and for the payment of the administrative expenses of the Safety Members Pension Plan, one of which shall be known as the "Safety Members Service Pension Fund" and the other of which shall be known as the "Safety Members General Pension Fund".

The Safety Members Service Pension Fund shall consist of:

- (a) Deductions made, pursuant to Section 529, from the salaries of Plan Members;
- (b) All contributions and donations to the Fire Department or to the Police Department for services by any Plan Members, except amounts of money donated to provide for any medal or permanent competitive award;
- (c) All fines imposed upon Plan Members for violations of rules and regulations of the respective department in which they are Department Members;
- (d) Proceeds from the sale of unclaimed property as determined by the

Board; and

(e) All interest, earnings and profits resulting from investments of such monies.

The Safety Members General Pension Fund shall consist of:

(a) All monies appropriated thereto by the Council of the City;

(b) All receipts from taxes as may be provided by law; and

(c) All interest, earnings and profits resulting from investment of such monies.

The monies in the Safety Members Service Pension Fund shall be used, other than for the investment thereof, exclusively for the payment of service pensions granted pursuant to Section 530 and for the refund of contributions as provided in this Article. The monies in the Safety Members General Pension Fund shall be used, other than for the investment thereof, exclusively for the payment of all pensions other than service pensions, such benefits as may be provided by ordinance adopted pursuant to the enabling provisions contained in this Article and of all administrative expenses of the Safety Members Pension Plan. In the event that the monies in the Safety Members Service Pension Fund should be insufficient, at any time, to pay all service pensions, then the Board shall have the power and authority to cause the Controller of the City to transfer to said fund sufficient monies therefor from the Safety Members General Pension Fund. In no other event shall any of the monies in the funds, whether as monies or cash on deposit or as monies invested, be commingled with any of the monies in the other fund. Neither the Safety Members Service Pension Fund nor the Safety Members General Pension Fund shall be a trust fund for any purpose, and the obligations to pay benefits pursuant to this Article shall be general obligations of the City.

Sec. 526. Investments.

The provisions of this section are the same as those of Sections 190.07 and 190.071 of this Charter as of the effective date of this section and they are hereby incorporated herein by express reference. Should the provisions of Sections 190.07 or 190.071 be amended at any time, or should they be repealed, the provisions of this section shall be deemed amended or repealed, as the case may be, the same as said Sections 190.07 or 190.071.

Sec. 527. Funding of the Safety Members Pension Plan.

(a) Actuarial Standards.

The Safety Members' Pension Plan shall be maintained on a reserve basis which, for the purposes of this Article, shall mean one which provides for the accumulation and maintenance of the Safety Members Service Pension Fund and the Safety Members General Pension Fund which together will at all times be equal to the difference between the present value of the obligations assumed and the present value of the monies to be received for paying such obligations, where such present values are estimated in accordance with accepted actuarial methods and on the basis of an assumed rate of interest and the mathematical probabilities of the occurrence of such contingencies as affect both the payment of the assumed obligations and the receipt of monies with which they are to be paid in accordance with the provisions of Sections 528 and 529.

The Board, as soon as it may deem it to be practicable after the effective

date of this Article but prior to the beginning of the fiscal year 1981–82 and in time for its use in preparing its annual budget for said year, shall secure an actuarial valuation showing the cost of maintaining said plan and funds on such reserve basis and, at intervals of not to exceed five (5) years, shall cause to be made an actuarial investigation including, but not limited to, the mortality, service and salary experience of the Plan Members and other beneficiaries and shall further cause to be made annually an actuarial valuation of the assets and liabilities of said funds.

The Board, from time to time and with the advice of the investment counsel, shall establish such an assumed rate of interest for the purpose of actuarial valuations, as in its judgment seems proper in the light of the experience and prospective earnings on the investment of said funds.

Said Board shall retain a competent consulting actuary for the purpose of making the necessary actuarial studies, reports, investigations and valuations and shall, with the advice of said actuary, adopt such actuarial assumptions as shall be necessary.

With the advice of the consulting actuary and of the investment counsel, the Board, for the purpose of the actuarial valuations, may provide by rule for the manner and the extent to which any unrealized profits or losses in the equity type investments of the funds shall be taken into account.

(b) Unfunded Liabilities.

The unfunded liabilities of the Safety Members Pension Plan shall be funded in accordance with the actuarial funding method adopted by the Board upon the advice of its consulting actuary. Any unfunded liabilities resulting from amendment of the provisions of this Article or by ordinance as authorized by this Article shall be amortized over a thirty (30) year period. Actuarial experience gains and losses shall be amortized over a fifteen (15) year period.

Sec. 528. Budget.

The Board of Pension Commissioners annually shall prepare and transmit to the Mayor, the Council and the Controller, a budget setting forth the estimated cost of maintaining the Safety Members Service Pension Fund and the Safety Members General Pension Fund. This budget shall include the following separate items:

(1) A sum to equal that percentage of the salaries of all Plan Members shown in the last rendered actuarial valuation to be required to cover the entry age cost to be paid by the City on account of Plan Member entrants into the Safety Members Pension Plan, said entry age cost being defined as the level percentage of salary of new Plan Member entrants which must be paid into the fund from their respective dates of entry in order to provide the benefits pursuant to the Safety Members Pension Plan's provisions, less the deductions to be made from the salaries of such new entrants while they are Plan Members.

(2) A sum equal to that percentage of salaries of all Plan Members shown in the last rendered actuarial valuation to be required to amortize the unfunded liabilities of the Safety Members Pension Plan, said unfunded liabilities being defined as the present value of all of the assumed obligations of the Safety Members Pension Plan less (a) the present value of the future contribution to be made by the City, (b) the present value

of the deductions to be made from the salaries of the Plan Members, and (c) the assets of the funds of the Safety Members Pension Plan.

(3) A sum sufficient to cover the cost, as determined by an actuarial estimate, of benefits granted by the City Council by ordinance as authorized by this Article.

(4) Administrative expenses of the Safety Members Pension Plan.

For the purpose of providing funds to meet the budget of the Safety Members Pension Plan, the City Council annually shall provide from revenues available to it, funds sufficient to provide the total amount of all items in said budget.

Should the Safety Members Pension Plan, prior to or during the fiscal year 1981-82, have insufficient funds in its Safety Members General Pension Fund to pay pensions granted pursuant to this Article or to pay the administrative expense of the Plan, then the Council shall appropriate sufficient monies therefor to the Safety Members General Pension Fund.

Sec. 529. Contributions of Plan Members.

Each Plan Member shall contribute to the Safety Members Pension Plan by salary deduction at the rate of 8% of the amount of his or her salary. For purpose of determining the amount of the deduction, "Salary" shall mean those elements of a Plan Member's compensation which would be included in calculating Final Average Salary. The administrative head of the Fire Department or the Police Department shall cause to be shown on each and every payroll of such department a deduction of 8% of the amount of salary of each Plan Member whose name appears thereon.

The Board shall maintain an individual account of the contributions by or for each Plan member, as hereinabove provided. Regular interest shall be credited to such individual accounts as of the last day of June and December of each year at such rate as the Board may deem proper in light of the Safety Members Pension Plan's earnings, exclusive of profits and losses on principal heretofore or hereafter resulting from sales of securities. No such interest shall be credited at any other time or to the individual account of any person who is not a Plan Member; provided, however, that such interest shall be credited to the individual account of a Plan Member whose employment is terminated for any reason for any period of service between the next preceding last day of June or December and the end of the pay period preceding the date of such termination at the rate of which regular interest was last credited to Plan Members' individual accounts.

Each Plan Member shall be deemed to consent and agree to each deduction made as provided for herein and the payment of each payroll check to such Plan Member shall be a full and complete discharge and acquittance of all claims and demands whatever for the services rendered by each member during the period covered by such payroll, except such claims as such Plan Member has to the benefits or payments provided for in this Article. Should a Plan Member or beneficiary entitled to a refund of contributions fail to demand payment thereof within ten (10) years from the date of separation or death of the Plan Member, whichever be applicable, said accumulated contributions shall be transferred to such reserve account or accounts in the Safety Members Service Pension Fund

as the Board, in its sole discretion, may determine and, thereafter, any action or proceeding to enforce payment thereof to any such member or beneficiary shall be forever barred.

Plan Members or beneficiaries thereof who elect to receive a refund of contributions, forfeit the right to benefits provided in this Article. After payment of any pension benefit has commenced, said Plan Member or beneficiaries forfeit the right to a refund of the Plan Member's contributions. Plan Members who return to active duty from a disability pension may not thereafter have their contributions refunded. A terminated Plan Member who had elected to have contributions returned, but who reen- ters service and again becomes a Plan Member, shall have the privilege of regaining the prior service credit by repaying the amount of his or her previously refunded contributions and interest and an amount calculated as interest which would have been earned between the date of original termination of status as a Plan Member and the date of reentry into service as a Department Member.

The Board shall have rule-making authority to insure that the Safety Members Pension Plan receives member contributions for all periods of credited service, except that the Board shall not have authority to require contributions for service credit for military service and for periods while a Plan Member is receiving a disability pension, or full pay for Injury On Duty. Plan Members, however, may elect to make contributions for periods of Injury On Duty compensated at the rate provided by general law in order to acquire credit for Years of Service for such period. Such contributions shall be at the contribution rate herein provided and shall be based on the salary the Plan Member would have received if he or she had not occupied Injury on Duty status.

Sec. 530. Service Retirement and Vesting.

(a) Starting at the age of fifty (50) years, a Plan Member who shall have ten (10) or more Years of Service, shall be retired by order of the Board from further active duty as a Department Member either (a) upon the filing of his or her written application therefor or (b) upon the filing of a written request therefor by or on behalf of the head of the department in which he or she is a Department Member, if it shall be determined by the Board to be for the good of such department, other than for a cause or reason which would entitle such Plan Member to a disability pension pursuant to Section 531, and the Board, if it shall so determine, shall state the cause or reason therefor in its order retiring such Plan Member.

(b) A former Plan Member who became such because of termination of his or her employment for any reason other than death or retirement on account of disability pursuant to the provisions of Section 531, and who has completed at least ten (10) Years of Service, may elect to leave his or her contributions in the Safety Members Service Pension Fund. Upon reaching the age of fifty (50) years, such former Plan Member shall be entitled to receive service retirement benefits in accordance with the formula hereinafter set forth. The election to leave member contributions in said fund shall be irrevocable and must be in writing, filed with the Board within three (3) years from the date of such termination of employ- ment. Upon the execution and filing of the same, the former Plan Mem-

ber's individual account shall be credited with an amount equal to all of the regular interest which, had he or she otherwise been entitled to the same, would have been credited thereto between the date of such termination of employment and the date of the filing of such election and thereafter, regular interest shall, until he or she be paid a pension, be credited thereto in the same manner as Plan Members' individual accounts shall be credited therewith. In the event that any such person should die before being paid a pension, the only benefit which shall be paid under the provisions of this Article is the payment of his or her accumulated contributions, including interest credited thereto, to such persons as may be entitled thereto. Failure to file such an election within three (3) years shall constitute an irrevocable decision not to take the service retirement benefits herein provided.

(c) After a Plan Member has attained the age of seventy (70) years, he or she shall annually submit to an examination by a regularly licensed, practicing physician selected by the head of his or her department who shall render a written report to such department and to the Board as to whether or not the Plan Member is physically and mentally fit to continue his or her duties as a Department Member. If the Plan Member is found by the Board not to be physically or mentally fit to so continue his or her duties, he or she shall be retired effective the first day of the calendar month next succeeding that month in which the physician's report is received by the Board.

(d) A pension payable pursuant to the provisions of this section shall be paid monthly for life in an amount which shall be equal to 2% of Final Average Salary per Year of Service for up to twenty (20) Years of Service; and for each additional year of service after twenty (20) years, 3% of Final Average Salary per year; provided, however, that the maximum percentage of Final Average Salary payable, regardless of length of service, shall be 70% of such Final Average Salary.

Sec. 531. Disability Pensions.

(a) Service-Connected Disability.

Upon the filing of his or her written application for a disability pension or upon the filing of a written request therefor by or on behalf of the head of the department in which he or she is a Department Member, any Plan Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries received or sickness caused by the discharge of the duties of such person as a Department Member, and who is incapable as a result thereof from performing his or her assigned duties, or those to which he or she would be assigned within the Plan Member's civil service classification if returned to duty, shall be retired by order of the Board from further active duty as a Department Member.

A Plan Member's incapacity is caused by the discharge of his or her duties if there is clear and convincing evidence that the discharge of the Plan Member's duties is the predominant cause of the incapacity.

A Plan Member retired under the provisions of this subsection shall be paid thereafter a monthly service-connected disability pension in an amount which shall be equal to the same percentage of the Plan Member's Final Average Salary as the Board shall determine, from time to time, to

be the percentage of his or her disability. Such pension shall be in an amount of not less than 30% and not more than 90% of the Retired Plan Member's Final Average Salary, but in no case shall the pension be less than the equivalent of 2% of Final Average Salary for each Year of Service of the Retired Plan Member

No Retired Plan Member, while retired pursuant to this subsection, ever shall be paid any pension pursuant either to Section 530 or to subsection (b) of this section.

(b) Nonservice-Connected Disability.

Upon the filing of his or her written application for disability pension by a Plan Member who shall have five (5) Years of Service or more, or upon the filing of a written request therefor with respect to such a Plan Member by or on behalf of the head of the department in which he or she is a Department Member, any Plan Member whom the Board shall determine has become physically or mentally incapacitated by reason of injuries or sickness other than injuries received or sickness caused by the discharge of the duties of such person as a Department Member, and who is incapable as a result thereof from performing his or her assigned duties or those to which he or she would be assigned within the Plan Member's civil service classification if returned to duty, shall be retired by order of the Board from further active duty as a Department Member.

As a further condition of entitlement to such a pension, the Board shall also determine that such disability was not principally due to or caused by voluntary action of the Plan Member intended to entitle him or her to a nonservice-connected disability pension.

A Retired Plan Member, retired under the provisions of this subsection shall be paid thereafter a monthly nonservice-connected disability pension in an amount which shall be equal to the same percentage of the Retired Plan Member's Final Average Salary as the Board shall determine, from time to time, to be the percentage of his or her disability; provided, however, that such pension shall be in an amount of not less than 30% and not more than 50% of the Retired Plan Member's Final Average Salary.

No Retired Plan Member, while retired pursuant to this subsection, ever shall be paid any pension pursuant either to Section 530 or to subsection (a) of this section.

(c) Determination of Disability.

Upon the filing of any written application or request for a disability pension, as referred to in subsections (a) and (b) of this section, the Board: (1) shall cause the Plan Member to be examined by and a written report thereon rendered by at least three (3) regularly licensed and practicing physicians selected by it; (2) shall hold a hearing with respect to such application or request; and (3) shall receive or hear such other evidence relating to or concerning the Plan Member's disability or claimed disability as may be presented to it. The Board shall have the power to hear and determine all matters pertaining to the granting and denying of any such application or request for a disability pension. The Board first shall determine whether or not the Plan Member is incapable of performing his or her assigned duties or those to which he or she would be assigned within the Plan Member's civil service classification if returned to duty. If the

Board were to determine that he or she is not so incapable, it then shall be the duty of the Board to deny the application or request. If the Board were to determine that he or she is so incapable, it then shall determine, pursuant to the language used in subsections (a) and (b) of this section, whether his or her incapacity or disability is service-connected or non-service-connected. The Board then shall determine the percentage of his or her incapacity or disability, within the limitations prescribed in subsection (a) and (b) of this section, and shall grant the application or request accordingly. If the Board were to determine that the disability is non-service-connected, and that the incapacity or disability was principally due to or caused by voluntary action by the Plan Member intended to entitle him or her to a non-service-connected disability pension, it then shall be the duty of the Board to deny the application or request. The Board upon its own motion or upon the written request of any Retired Plan Member, retired pursuant to subsections (a) or (b) of this section, shall have the power to consider new evidence pertaining to the case of any such Retired Plan Member and to increase or decrease the percentage of his or her incapacity or disability within the limitations prescribed in subsection (a) or (b) of this section; provided, however, that any such increase or decrease shall be based only upon injuries or sickness for which he or she was retired. In the case of any former Plan Member who became such by reason of his or her resignation or discharge as a Department Member, the Board, in order to grant any application filed by him or her for a disability pension, must also determine, in addition to all of the foregoing, that any existing incapacity or disability upon his or her part occurred prior to the termination of his or her active status as a Department Member and had been continuous up to the date of the Board's determinations.

It shall be incumbent upon the Board to adopt by rule, within a reasonable time, a disability rating schedule to assist in standardizing disability pension awards.

(d) Termination of Disability Pensions.

The pension of any Retired Plan Member, retired pursuant to subsection (a) or to subsection (b) of this section and whose active status as a Department Member had been terminated by reason of his or her retirement, shall cease when the incapacity or disability for which he or she had been retired shall cease and he or she either: (1) shall have been restored to active duty as a Department Member in the same permanent rank which he or she had held as of the date of retirement; or (2) shall have been ordered restored to active duty as a Department Member in such same permanent rank and shall have declined, refused or neglected to report therefor or to perform duties as such. Provided, however, that any former Plan Member who has been retired for more than five (5) years from the date of the Board's action by which he or she was retired may never be restored to active duty as a Department Member. The pension of any Retired Plan Member, retired pursuant to subsection (a) or to subsection (b) of this section and whose active status as a Department Member had been terminated by reason of his or her resignation or discharge as such, shall cease when the incapacity or disability for which he or she received a disability pension shall cease. The Board shall have the

power to hear and determine upon its own motion all matters pertaining to the termination of any such pension.

After a Retired Plan Member, whose active status as a Department Member had been terminated by reason of his or her retirement, has been retired on a service-connected disability pension or on a nonservice-connected disability pension for five (5) years, and has been found to be no longer disabled, the Board shall adjust such Retired Plan Member's pension to 30% of his or her Final Average Salary. The adjusted pension shall reflect such cost of living adjustments as would have occurred had the Retired Plan Member's pension originally been based on such adjusted percentage.

(e) Periodic Medical Examinations.

Except in those instances in which the Board has determined that, due to the nature of the disability, no purpose would be served in having periodic medical examinations to determine whether or not a Retired Plan Member is still disabled, all Retired Plan Members on a disability pension shall undergo medical examinations at periodic intervals, as determined by the Board, for the first five (5) years of their disability retirement. Retired Plan Members who receive service-connected disability pensions exceeding 30% of Final Average Salary and Plan Members who terminated City employment by reason of resignation or discharge prior to being granted a disability retirement, shall thereafter undergo medical examinations as determined by the Board.

If a Retired Plan Member resides outside of the State of California, the Board shall have the authority to order medical examinations of Retired Plan Members at any place it may determine to be desirable and shall, if it is determined that it would impose hardship on the person to be examined to travel to such place, have the authority to defray the reasonable cost of any such travel required.

(f) Assessing Cost for Missed Medical Appointments.

The Board shall have the authority to provide, by rule, for assessing the cost of medical appointments missed by disability pension applicants, or by Retired Plan Members on a disability pension, where such missed appointments were not caused by factors beyond the control of the Plan Member or Retired Plan Member.

(g) Re-application After Denial of Disability Pension.

The Board shall establish reasonable rules governing the re-application by Plan Members for a disability pension where an application has been denied and a new application has been filed subsequently for the same or similar medical reasons as those which were the basis of a previously denied application.

(h) Transfers—Charter Section 108.

For a period of one year following the effective date of a Retired Plan Member's disability pension, such Retired Plan Member shall be eligible for status without examination under the provisions of Section 108 of this Charter in civil service classifications other than those that would entitle him or her to membership in the fire and police pension systems established by Articles XVII or XVIII of this Charter or by the provisions of this Article; provided, however, that the provisions of this subsection shall not

apply to former Plan Members whose status as Department Members had terminated by reason of resignation or discharge.

Sec. 532. Survivorship Pensions.

(a) Pension for Qualified Surviving Spouse.

(1) Plan Member's Service-Connected Death.

The Qualified Surviving Spouse of a Plan Member who shall die by reason of injuries received or sickness caused by the discharge of his or her duties while a Department Member, shall be paid for life or until he or she shall cease to be a Qualified Surviving Spouse, a monthly pension in an amount which shall be equal to 75% of the deceased Plan Member's Final Average Salary.

For the purposes of the benefit provided in this paragraph (1), a Plan Member has died by reason of injuries received or sickness caused by the discharge of his or her duties if there is clear and convincing evidence that the discharge of the Plan Member's duties were the predominant cause of his or her death.

(2) Plan Member's Nonservice-Connected Death.

The Qualified Surviving Spouse of a Plan Member who shall have five (5) or more Years of Service and who shall die while a Department Member, by reason of injuries or sickness other than injuries received or sickness caused by the discharge of his or her duties, shall be paid for life or until he or she shall cease to be a Qualified Surviving Spouse, a monthly pension in an amount which shall be equal to 30% of the deceased Plan Member's Final Average Salary, or, if the Plan Member, at the time of death, was then eligible to receive a pension on account of Years of Service, 80% of the amount of such service pension as the Plan Member at the time of his or her death would have been entitled to receive on account of Years of Service, whichever is higher; provided, however, that the entitlement of a Qualified Surviving Spouse under the provisions of this paragraph (2) may not exceed 40% of the deceased Plan Member's Final Average Salary.

(3) Retired Plan Member's Death While on a Service Pension.

The Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or she is receiving a pension pursuant to Section 530, shall be paid for life or until she or he shall cease to be a Qualified Surviving Spouse, a monthly pension in an amount which shall be equal to 60% of the pension received by the deceased Retired Plan Member immediately preceding the date of his or her death. The benefit described in this paragraph (3) may be modified as provided in subsection (b) of this section.

(4) Retired Plan Member's Death While on a Service-Connected Disability Pension.

The Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or she is receiving a service-connected disability pension pursuant to Section 531, shall be paid for life or until she or he shall cease to be a Qualified Surviving Spouse, a monthly pension in an amount which shall be equal to 60% of the pension received by the deceased Retired Plan Member immediately preceding the date of his or her death, unless the death of the Retired Plan Member occurs within three (3) years after the

effective date of his or her pension and is due to service-connected causes, in which case, the Qualified Surviving Spouse shall receive, or in a case where an option has been elected pursuant to Subsection (b) of this Section, may elect to receive, 75% of the Retired Plan Member's Final Average Salary, as modified by the cost of living adjustments made pursuant to Section 533 of this Article since the date of retirement of the Retired Plan Member. The benefit described in this paragraph (4) may be modified as provided in subsection (b) of this section.

(5) Retired Plan Member's Death While on a Nonservice-Connected Disability Pension.

The Qualified Surviving Spouse of a Retired Plan Member, who shall die while he or she is receiving a nonservice-connected disability pension pursuant to Section 531, shall be paid for life or until she or he shall cease to be a Qualified Surviving Spouse, a monthly pension in an amount which shall be equal to 60% of the pension received by the deceased Retired Plan Member immediately preceding the date of his or her death. The benefit described in this paragraph (5) may be modified as provided in subsection (b) of this section.

(6) Nonservice-Connected Death of Plan Member with Less than Five (5) Years of Service.

In the event the Plan Member died of nonservice-connected causes before having completed five (5) Years of Service, the Qualified Surviving Spouse of the deceased Plan Member, or his or her Minor or Dependent Children if there is no Qualified Surviving Spouse, or his or her Dependent Parents if there is no Qualified Surviving Spouse and no Minor or Dependent Children, shall be entitled to the Basic Death Benefit described in paragraph (7) below.

(7) Basic Death Benefit.

The Basic Death Benefit shall consist of: (1) the return of a deceased Plan Member's contributions to the Plan with accrued interest thereon; subject, however to the rights created by virtue of the Plan Member's designation of a beneficiary as otherwise provided in this Article; and (2) if the deceased Plan Member had at least one (1) Year of Service, the deceased Plan Member's Final Average Salary multiplied by the number of completed Years of Service, not to exceed six (6) years; provided that said amount shall be paid in monthly installments of one-half ($\frac{1}{2}$) of the deceased Plan Member's Final Average Salary.

A Qualified Surviving Spouse, or a guardian acting on behalf of the Minor or Dependent Children of a deceased Plan Member if there is no Qualified Surviving Spouse, or Dependent Parents if there is no Qualified Surviving Spouse and no Minor or Dependent Children entitled to a pension pursuant to any of the provisions of this section, where benefits are based upon the Plan Member's death in active service, may in lieu of the pension provided and before the first payment of such pension, elect to receive the Basic Death Benefit.

(b) Optional Pensions for a Qualified Surviving Spouse.

At any time before, the first payment of a service pension, a service-connected disability pension or a nonservice-connected disability pension, the Plan Member may elect to receive, in lieu of his or her pension as

provided in Section 530 or Section 531, the actuarial equivalent at that time of such pension and of the pension for the Qualified Surviving Spouse as provided in subsection (a) of this section, by electing an optional pension payable throughout the balance of his or her life, with the provision that upon his or her death such optional pension shall be continued to the Plan Member's Qualified Surviving Spouse in the proportional amount designated by the Plan Member at the time of election of the option provided by this section.

The amount of such optional pension shall be so calculated that the liability of the Safety Members Pension Plan at the date of retirement under the optional pension shall be equal to the liability of the Safety Members Pension Plan at the same date under the pension awarded in accordance with the provisions of Section 530 or Section 531 and of the survivorship pension provided by subsection (a) of this section. For the purpose of this section, the liability of the Safety Members Pension Plan is defined as the present value, in accordance with tables adopted by the Board, of the pensions or optional pensions calculated by approved actuarial methods, and recommended by the Board's actuary. In determining the actuarial equivalent of the pension for a Qualified Surviving Spouse as provided pursuant to paragraphs (3), (4), and (5) of subsection (a) of this section, the equivalent of a 60% survivorship pension shall be used in all cases.

Provided further, that the optional amounts, calculated in accordance with the foregoing paragraph, shall provide a range of optional values such that the amount to be paid to the Qualified Surviving Spouse of the Plan Member shall range from 60% to 100% of the pension payable to the Plan Member, varying by increments of 5%.

If a Retired Plan Member, previously retired on a disability pension pursuant to the provisions of Section 531, should be reinstated to active duty upon termination of his or her disability, the election to receive the optional pension as herein provided, shall be deemed cancelled as of the effective date of such reinstatement.

A Retired Plan Member, previously retired on a disability pension pursuant to the provisions of Section 531 and whose pension has subsequently been adjusted as provided for in Section 531, shall have the right to cancel any option previously elected by him or her pursuant to the provisions of this subsection.

The Board shall by rule provide for a method in which the election to receive an optional pension shall be exercised.

(c) Additional Pension Amounts.

Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her, in addition to a Qualified Surviving Spouse, a Minor Child or Children or a Dependent Child or Children of his or her marriage to the Qualified Surviving Spouse, then such Qualified Surviving Spouse, shall be paid, but only while she or he is a Qualified Surviving Spouse, an additional monthly pension in an amount which shall be equal to 25% of the pension he or she as a Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one (1) Minor Child or Dependent Child, 40% thereof while there

are two (2) Minor Children or Dependent Children or a combination thereof, and 50% thereof while there are three (3) or more Minor Children or Dependent Children or a combination thereof, and such additional monthly pension shall be the exclusive property of such Qualified Surviving Spouse and not the property of any such Minor Child or Dependent Child.

Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her in addition to a Qualified Surviving Spouse, a Minor Child or Children or a Dependent Child or Children of his or her marriage to a former spouse, then the guardian or guardians of the estate or estates of any such Minor Child or Children or Dependent Child or Children shall be paid, but only while the Qualified Surviving Spouse is a Qualified Surviving Spouse, a monthly pension in an amount which shall be equal to 25% of the pension the Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one (1) Minor Child or Dependent Child, 40% thereof while there are two (2) Minor Children or Dependent Children or a combination thereof, and 50% thereof while there are three (3) or more Minor Children or Dependent Children or a combination thereof.

Whenever any Plan Member or Retired Plan Member shall die and leave surviving him or her, in addition to a Qualified Surviving Spouse, a minor Child or Children or a Dependent Child or Children of his or her marriage to the Qualified Surviving Spouse and a Minor Child or Children or a Dependent Child or Children of his or her marriage to a former spouse, then a monthly pension shall be paid, but only while the Qualified Surviving Spouse is a Qualified Surviving Spouse, in an amount which shall be equal to 25% of the pension the Qualified Surviving Spouse would be entitled to pursuant to the provisions of subsection (a) of this section while there is one (1) Minor Child or Dependent Child, 40% thereof while there are two (2) Minor Children or Dependent Children or a combination thereof, and 50% thereof while there are three (3) or more Minor Children or Dependent Children or a combination thereof. The amount of such monthly pension shall be divided by the number of Minor Children or Dependent Children and shall be adjusted accordingly whenever any Minor or Dependent child shall cease to be such. The Qualified Surviving Spouse shall be paid the portion of such monthly pension which shall be applicable to the number of his or her Minor Children or Dependent Children and the same shall be her or his exclusive property. The guardian or guardians of the estate or estates of the Minor Children or Dependent Children who are not those of the Qualified Surviving Spouse shall be paid the portion of such monthly pension which shall be applicable to such Minor Children or Dependent Children and the same shall be the exclusive property of such children.

The additional pension amounts provided in this subsection for persons other than a Qualified Surviving Spouse are to be calculated on the basis of the applicable Qualified Surviving Spouse pension provided pursuant to subsection (a) of this section, unmodified by any election that may previously have been made pursuant to the provisions of subsection (b) of this section.

Additional pension amounts are also subject to the limitation that the amount of any survivorship pension provided in this section, after the additional payments provided in this subsection are added thereto, may not exceed 100% of the Final Average Salary of the deceased Plan Member or 100% of the Final Average Salary of the Retired Plan Member, as modified by the cost of living adjustments made pursuant to Section 533 of this Article since the date of retirement of the Retired Plan Member. In case of such excess, any additional pension amounts shall be reduced to a level where the total amount of pension is equal to such maximum.

(d) Reinstatement of Pension of Reinstated Qualified Surviving Spouse.

Any Qualified Surviving Spouse, who shall marry and thereby cease to be a Qualified Surviving Spouse, shall be reinstated as a Qualified Surviving Spouse as of: (i) the date upon which a judgment or decree shall become final dissolving such marriage upon any ground or declaring a void or voidable marriage to have been null and void or voided, provided, however that such date shall be within five (5) years from the date of the marriage ceremony; or (ii) the date upon which such marriage shall be dissolved by the death of the other party thereto, provided, however, that such date shall be within five (5) years from the date of the marriage ceremony. Such reinstated Qualified Surviving Spouse shall be entitled to the reinstatement of his or her pension effective as of either such date, whichever shall be applicable, but shall not be entitled to the payment of any pension for the period prior to such applicable date and subsequent to the date of the marriage ceremony. The pension paid to any other persons entitled under the provisions of the Safety Members Pension Plan during the period of the marriage or purported marriage of such reinstated Qualified Surviving Spouse shall cease when his or her pension shall be reinstated, except as otherwise provided in subsection (c) of this section. However, should such reinstated Qualified Surviving Spouse thereafter be a party to another marriage ceremony, his or her pension shall cease and never again shall be reinstated regardless of whether such marriage ceremony shall result in a valid marriage or in a voidable or void marriage and whether or not the same legally shall be terminated.

(e) Pension For Minor Child or Children and Dependent Child or Children.

Whenever any Plan Member or Retired Plan Member shall die without leaving a Qualified Surviving Spouse, the guardian of the estate of his or her Minor Child or Children or Dependent Child or Children shall be paid, until each such child shall cease to be a Minor Child or Dependent Child, a monthly pension equal to the pension a Qualified Surviving Spouse would have been eligible to receive pursuant to subsection (a) of this section had a Qualified Surviving Spouse survived such Member. Whenever any Plan Member or Retired Plan Member shall die leaving a Qualified Surviving Spouse who thereafter shall cease to be a Qualified Surviving Spouse or who thereafter shall cease to be a reinstated Qualified Surviving Spouse, the guardian of the estate of his or her Minor Child or Children or Dependent Child or Children shall be paid, until each such child shall cease to be a Minor Child or Dependent Child, a monthly

pension equal to the pension a Qualified Surviving Spouse would have been eligible to receive pursuant to subsection (a) of this section. In any of the foregoing events and if there were to be more than one (1) Minor Child or Dependent Child, an equal share of such monthly pension shall be paid for and on behalf of each such child to the guardian of his or her estate and shall be adjusted as each of them shall cease to be a Minor Child or Dependent Child in the manner set forth in subsection (c) of this section. If payments are made pursuant to this subsection (e), no additional pension amounts shall be paid pursuant to subsection (c) of this section.

(f) Pension for Dependent Parent or Parents.

Whenever any Plan Member or Retired Plan Member shall die without leaving a Qualified Surviving Spouse or a Minor Child or Dependent Child, a monthly pension shall be paid to such Dependent Parent or Parents or to the survivor of them until each such Dependent Parent or Parents shall cease to be such. Any Dependent Parent who shall cease to be such but who thereafter again shall become unable to pay his or her necessary living expenses without a pension shall be entitled to have his or her pension reinstated.

The total amount of a pension payable to the Dependent Parent or Parents shall be the same as that to which a Qualified Surviving Spouse would have been entitled pursuant to subsection (a) of this section.

(g) Determinations With Respect to Cause of Death, Dependent Child and Dependent Parent.

The Board shall have the same power as that which has been given to it by subsections (c) and (d) of Section 531 in order to determine: (1) the fact whether a Plan Member's death was service-connected or nonservice-connected for the purposes of paragraphs (1) and (2) of subsection (a) of Section 532; (2) the fact of whether or not a child of a deceased Plan Member or Retired Plan Member is a Dependent Child; and (3) whether or not any parent of a deceased Plan Member or Retired Plan Member is a Dependent Parent. The Board also shall have the power to determine, from time to time, the fact of whether or not a child continues to be a Dependent Child, the fact of whether or not a parent continues to be a Dependent Parent and the fact of whether or not a Dependent Parent who had ceased to be such thereafter shall have become entitled to have his or her pension reinstated.

(h) Medical Reports and Hearings.

The power of the Board to determine the fact of whether a Plan Member's death was service-connected or nonservice-connected, as provided in subsection (g) of this section, hereafter may be exercised by it upon the basis of a written report from one (1) regularly licensed and practicing physician selected by it, provided, however, that the Board, in its discretion, may obtain such a report from each of more than one (1) such physician. The determination hereinbefore referred to in this subsection may, at the option of the Board, be made without a hearing being held pursuant to the provisions of subsection (g) of this section.

(i) Distribution of Contributions.

Whenever a Plan Member dies without leaving a person or persons entitled to receive a pension pursuant to the provisions of this section,

then, and in that event, his or her contributions to the Plan, together with such interest as may have been credited to the Plan Member's individual account shall be paid to such person as he or she shall have nominated by written designation duly executed and filed with the Board. In the event there be no written designation of beneficiary, surviving spouse, children or parents, then said contributions shall be paid to the executor or administrator of the estate of such deceased Plan Member, or to any other person legally authorized to collect money due the decedent.

Sec. 533. Cost of Living Adjustments.

(a) Determination of Cost of Living Adjustments.

The Board, before May 1 of each year commencing with the year 1981, shall determine the percentage of the annual increase or decrease in the cost of living as of March 1 of that year from March 1 of the preceding year as shown by the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics or such other index as the Federal government may develop to replace the All Urban Consumers Index for the area in which the City is located. If any such index were not to reflect the cost of living as of a particular March 1, then the index for the closest preceding date shall be used.

(b) Annual Cost of Living Adjustments.

Commencing as of July 1 of the year in which the Board shall determine the percentage of increase or decrease in the cost of living, the monthly amounts of all pensions granted pursuant to the provisions of this Article, shall be increased or decreased by reason of such determined percentage of increase or decrease in the cost of living, not to exceed an increase or decrease of 3% in any given year. Pensions which became payable before July 1, but subsequent to the preceding July 1, will be adjusted on a prorated basis whereby one-twelfth ($\frac{1}{12}$) of the annual adjustment shall be applied for each completed month since such pension commenced.

In no event shall pensions adjusted hereunder ever be decreased below the amount received by the Beneficiary when such pension first became payable to him or her.

(c) Discretionary Cost of Living Adjustments.

To the extent that the annual cost of living adjustments provided by subsection (b) hereof are less than the annual change in the cost of living as determined in subsection (a) hereof, the City Council may grant discretionary cost of living adjustments, in addition to the annual cost of living adjustments provided by subsection (b) hereof, subject to the following conditions and requirements:

(1) Discretionary adjustments may not be provided more frequently than once every three (3) years, counting from the effective date of this section and, after a discretionary adjustment has once been made, counting from the date the last discretionary adjustment became effective.

(2) Discretionary adjustments shall not exceed one-half ($\frac{1}{2}$) of the difference between the percentage of the annual increases in the cost of living, as determined pursuant to the provisions of subsection (a) of this section, and the annual adjustments made pursuant to subsection (b) of this section for each of the preceding three (3) years. Discretionary adjustments shall be allocated to each of the three (3) years for which an

adjustment is made.

(3) Discretionary adjustments herein provided shall be applied to pensions granted pursuant to Sections 530, 531 and 532 subject to the following limitations: If a pension became payable on or after the July 1 immediately preceding the effective date of such adjustment, it shall not be so adjusted; and any pension which shall have become payable at a time within the three (3) year period (but prior to the immediately preceding July 1) shall be prorated on a monthly basis to the number of completed months for which the pension was received, provided that pensions paid pursuant to Section 532 (a) (3), (4) or (5), or Section 532 (c), (e) or (f), shall be adjusted by basing eligibility on the date upon which the Retired Plan Member's pension became effective.

(4) Discretionary cost of living adjustments may be provided only by ordinance. Ordinances providing discretionary adjustments may not be finally adopted until the City Council has first obtained and published a report from the actuary or actuaries of the Safety Members Pension Plan indicating the present value of the liabilities that will be created by the proposed discretionary adjustment. This report must identify the annual funding cost of amortizing this liability over a thirty (30) year period utilizing the funding procedure adopted by the Board.

(5) Ordinances adopted pursuant to this subsection must be by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and readoption by the Council in the same manner as other ordinances requiring a two-thirds vote. No such ordinance may be finally adopted by the Council until the expiration of at least thirty (30) days after its first presentation to the Council, nor until after a public hearing has been held thereon. Ordinances adopted pursuant to this subsection, shall be published no later than November 30 and shall become effective January 1.

(6) All adjustments provided in this subsection are to be applied prospectively only and shall not be understood to permit retroactive adjustments of pensions.

Sec. 534. Effect of Receipt of Workers' Compensation.

For the purposes of this section, "compensation" is defined as every payment provided for by any general law providing benefits for injury, sickness or death caused by or arising out of employment, and also includes payments made to satisfy any claim for damages to the extent that such payments relieve of the obligation to pay compensation under such general law. If, pursuant to general law, an award of compensation shall be made or compensation shall be paid on account of injury, sickness or death caused by or arising out of employment as a Department Member then, and in that event, the total amount of any pension granted pursuant to this Article shall be deemed to be, and shall be, reduced by the total amount of the compensation so awarded or so paid and the amount remaining after such reduction therefrom shall be deemed to be, and shall be, the pension so granted; provided, however, that any pension granted pursuant to Section 530 shall not be reduced by any compensation which shall be awarded or paid, nor shall any pension be reduced by any compensation which shall be awarded or paid to any Retired Plan Member retired

pursuant to Section 530 or to any Plan Member who shall die while eligible to retirement pursuant to said section. In the event that any such award shall be made or compensation shall be paid, any pension payments which shall be made pursuant to this Article shall be deemed to be, and shall be, payments of such award or compensation and shall be applied to the payment of any such award or compensation, and any portion of the pension payments which shall not be so applied shall be deemed to be, and shall be, payments of the pension so granted. Pension payments shall be made only to the extent that the cumulative sum of the payments of pension provided for in this Article and accrued and paid shall exceed the cumulative sum of the award or compensation paid.

No deductions which shall be made from the salary of any Plan Member and deposited to the credit of the Safety Members Service Pension Fund shall cover, directly or indirectly, the cost of any compensation, but shall be applied only to the cost of pensions which shall be granted pursuant to Section 530.

Notwithstanding the foregoing provisions of this section, the Board may provide by rule that compensation awards may be deducted on an installment basis; provided, however, that no such installment may be smaller than 25% of any monthly pension amount payable to the Retired Plan Member.

Sec. 535. Social Security Participation.

Should Social Security participation be mandated or made available to Plan Members by Federal legislation amending the Social Security act or by action taken by the City or by Plan Members as provided by law, the following provisions shall govern the manner in which such participation by Plan Members is to be implemented and the limitations hereinafter set forth shall be controlling unless Federal law is contrary to these provisions, is in conflict therewith and is clearly intended to be pre-emptive. Should applicable provisions of Federal law in any respect differ from the provisions contained in this section and should they be determined to be pre-emptive as to any part thereof, then and in that event, those provisions of this section not affected by such Federal law shall remain in full force and effect.

As to the rights and entitlement to benefits of Plan Members participating in such Social Security coverage, the City Council shall have the power and authority, subject to the veto of the Mayor, to adopt ordinances modifying the benefits and conditions of entitlement provided in this Article, including adjustments of Plan Member contributions to the Safety Members Pension Plan as hereinafter more specifically provided and subject to the limitations stated herein.

Ordinances adopted pursuant to this section must be approved by not less than two-thirds of the membership of the Council, subject to the veto of the Mayor and readoption by the Council in the same manner as other ordinances requiring a two-thirds votes. No such ordinance may be finally adopted by the Council until the expiration of at least thirty (30) days after its first presentation to the Council, nor until after a public hearing has been held thereon.

Any ordinance adopted pursuant to this section shall go into effect upon

publication.

Any participation in Social Security coverage shall be by integration with the benefits provided by this Article and shall not be in addition to the benefits provided in the Safety Members Pension Plan. Integration is to be defined in harmony with the provisions of the Social Security Act and must be in substantial compliance with the rules and regulations governing said Act. Benefits provided by an integrated system must be at least equal to the benefits offered by the Safety Members Pension Plan prior to such integration. The level of integration may be periodically adjusted by the Mayor/Council to ensure an adequate level of integration.

Plan Members participating in Social Security shall have their contributions to the Safety Members Pension Plan reduced; provided, however, that Plan Members must contribute at least 2% of salaries to the integrated Safety Members Pension Plan.

Sec. 536. Authority of City Council to Provide Certain Subsidy Payments by Ordinance.

The provisions of this section are the same as those of Section 190.50 of this Charter as of the effective date of this section and they are hereby incorporated herein by express reference. Should the provisions of Section 190.50 be amended at any time or should they be repealed, the provisions of this section shall be deemed amended or repealed, as the case may be, the same as said Section 190.50.

Sec. 537. Miscellaneous Provisions.

The provisions of this section shall be controlling if there were to be any other provisions contained elsewhere in this Article which are or could be construed to be contrary thereto, in conflict therewith or different therefrom.

(1) Any former Plan Member who shall believe that he or she is eligible to be paid a pension pursuant to Sections 530 or 531 of this Article, may file his or her written application for the payment to him or her of a pension pursuant to either one of said sections within the time prescribed for the filing thereof by any applicable provision of law, and the Board, if it were to determine that the contingencies provided in this Article for the payment thereof had happened or occurred as to such former Plan Member and if there is no legal bar or defense to the granting to him or her of such pension or to any judicial action or proceeding which could be brought by him or her with respect thereto, shall grant him or her the pension in accordance with his or her written application therefor.

(2) If at any time after the effective date of this Article, Federal or state law should become preemptive or controlling with respect to the provisions of this Article, the Board shall have the power to adopt such rules as may be necessary to comply with such Federal or state law. Such rules shall be adopted upon the advice and with the concurrence of the City Attorney.

(3) Whenever a Plan Member, for overtime work, shall take a period of time off with pay: (a) a deduction for pension purposes shall be made from such pay but only in the same amount as that which would have been deducted from his or her salary if such period had been one of regular work; and (b) such period shall be part of his or her Years of Service.

Whenever a Plan Member, for overtime work, shall receive a cash payment: (a) a deduction for pension purposes shall not be made from such payment; and (b) the period of overtime work for which he or she shall receive such payment shall not be part of his or her Years of Service.

(4) In the event the City establishes a deferred compensation system applicable to the members of the Safety Members Pension Plan, the Board shall prescribe rates of contributions and benefits so that the interest of the City in protecting the Plan and the interest of the Plan Members in pension benefits are protected when compared with contributions and benefits which would have been received had deferred compensation not been instituted.

The Charter of the City of Los Angeles is hereby amended by adding Section 229.1 thereto to read as follows:

Section 229.1. Short Term Revenue Certificates.

Subsection 1. In addition to the powers conferred by Section 229 of this charter, the Department of Water and Power shall also have the power to borrow money and incur indebtedness from time to time for any of the purposes for which it can issue bonds or notes pursuant to Section 229, which such indebtedness shall be evidenced by revenue certificates issued in the manner and subject to the limitations hereinafter set forth in this Section 229.1.

Subd. (a). Certificates issued by the Department pursuant to this Section 229.1 may be negotiable or non-negotiable, and all certificates shall be, and shall recite upon their face that they are, payable both as to principal and interest out of the revenue fund pertaining to the municipal works on account of which the indebtedness evidenced by such certificates was created and not out of any other fund or moneys of the Department or the city. Such recital, however, shall not preclude payment from the proceeds of sale of other certificates issued pursuant to this section or from amounts drawn on bank lines of credit pursuant to Subsection 2 of this section or from any other lawfully available source of funds.

Subd. (b). In order to exercise the power to borrow money pursuant to this Section 229.1, the Board shall adopt a resolution authorizing the sale and issuance of certificates for such purpose, which resolution shall specify—

Clause (1)—the purpose or purposes for which the proposed certificates are to be issued;

Clause (2)—the maximum principal amount of the certificates which may be outstanding at any one time;

Clause (3)—the maximum interest cost, to be determined in the manner specified in said resolution, to be incurred through the issuance of such certificates; and

Clause (4)—the obligations to certificate holders while certificates are outstanding, which obligations may include such of those specified in Clauses (1) through (4), inclusive, of Subsection 13 of Section 229 of this charter as the Board shall make applicable to certificate holders.

Subd. (c). The Board may also provide, in its discretion—

Clause (1)—for the sale and issuance of such certificates at such times, in such manner (either through public or private sale), in such amounts,

with such maturities not exceeding nine months from date of issue, at such rate of discount or interest, and with such other terms and conditions, as may be deemed appropriate by the General Manager and Chief Engineer of the Department or such other officer as may be designated by the Board;

Clause (2)—for the appointment of one or more banks or trust companies, either inside or outside the State of California, as depository for safekeeping and as agent for the deliver of, and the payment of, said certificates;

Clause (3)—for the employment of one or more persons or firms to assist the Department in the sale of said certificates;

Clause (4)—for the refunding of such certificates from time to time without further action by the Board, unless and until the Board specifically revokes such authority to refund; and

Clause (5)—for such other terms and conditions as the Board may deem appropriate.

Subd. (d). Certified copies of such resolution shall be transmitted to the offices of the Mayor and of the City Clerk for information only and such resolution shall not be subject to approval by the Mayor or Council but shall take effect upon its adoption by the Board, subject only to the right of referendum herein provided for.

Subd. (e). Upon any such resolution taking effect subject to the right of referendum, the Board shall cause the same to be published by at least one insertion in some daily newspaper published and of general circulation in the City of Los Angeles. At any time within 30 days after such publication a referendary petition, demanding the submission of such resolution to a vote of the qualified electors of the city for their assent to the issuance of the proposed certificates, may be filed with the City Clerk. Except as in this Section 229.1 otherwise expressly provided, all of the provisions of this charter relating to referendum with respect to ordinances shall apply to any referendum under the provisions of this Subsection 1. Upon presentation to the Council by the City Clerk of a referendary petition, the resolution which is the subject thereof shall be of no effect unless and until the same shall have been assented to by the voters.

Subd. (f). If no such referendary petition is presented within the aforesaid period of 30 days, then upon the expiration of said period, or if the proposition of issuing the certificates shall have been assented to by the voters, then upon such proposition having been so assented to, the said resolution shall take full and final effect, and the General Manager and Chief Engineer of the Department may proceed in accordance with the provisions of this Section 229.1 and issue certificates within the terms of said resolution.

Subd. (g). From and after the full and final effective date of such resolution, the General Manager and Chief Engineer of the Department shall submit a written report to the Board at its first meeting following the issuance of certificates specifying the total principal amount of certificates then outstanding, the interest cost thereon, the Department's current outstanding debt, and such other information as the Board may request.

Subsection 2. The Board may arrange for bank credit for the purpose

of providing an additional source of repayment for indebtedness incurred under this section. Amounts drawn on available bank lines of credit may be evidenced by negotiable or non-negotiable promissory notes or other evidences of indebtedness.

Subsection 3. No amount shall be borrowed under the authority of this Section 229.1 which, when added to the amount of all notes or other evidences of indebtedness issued pursuant to the authority of Subsection 18 of Section 229 and then outstanding, shall exceed 25% of the gross operating revenues from the works on account of which it is borrowed during the preceding fiscal year.

Subsection 4. This Section 229.1 is complete authority for the issuance of certificates and the obtaining of bank credit hereunder, and no action or proceeding not required by this section shall be necessary for the valid authorization of such indebtedness. The powers conferred by this section are in addition and supplemental to, and are not in substitution for, and the limitations imposed by this section shall not affect, the powers conferred by Section 229 or any other section of this charter.

The Charter of the City of Los Angeles is hereby amended by amending Section 275 thereof to read as follows:

Sec. 275. Any person or persons filing an initiative petition, or the person or organization on whose behalf such petition is filed, shall have the right to file with the City Clerk, at least eighty-five days prior to the election at which the ordinance proposed by such petition is to be submitted to a vote of the electors of the City, an argument favoring said proposed ordinance, and the Council shall have the right to present, or permit to be presented and filed with the City Clerk within the same limit of time, an argument opposing said ordinance. No such argument shall exceed two thousand words in length. At least seventy-five days prior to such election, the person or organization, including the Council, which presented arguments in favor of or opposition to the proposed ordinance shall have the right to file with the City Clerk rebuttal arguments, not to exceed one thousand words in length. All such arguments and rebuttal arguments submitted in connection with any particular measure shall be printed in the voter information pamphlet in the same format and type size, which format and type size, no smaller than six point and no larger than ten point type, the City Clerk shall prescribe. Nothing in this section shall authorize the Council to expend money of the City for formulating or printing any such argument. The person or organization submitting any such arguments shall reimburse the City Clerk for all expenses incurred in printing said arguments in the voter information pamphlet.

The Charter of the City of Los Angeles is hereby amended by adding Section 291.1 thereto to read as follows:

Sec. 291.1. Notwithstanding any other provision of this Charter, if the vote at any recall election shall recall an officer of the City of Los Angeles other than a member of the Board of Education, then the candidate who receives a majority of the votes cast for candidates to succeed the officer removed shall be thereby declared elected for the remainder of the term. If no candidate receives a majority of such votes cast, the Council by ordinance shall call another special election within the City or council

district, as the case may be, for the purpose of submitting to the electorate therein the names of the two candidates to succeed the recalled officer who received the highest number of votes at the recall election and determining by a majority vote who shall be elected to succeed the recalled officer. The time for holding such election, which shall be not less than 60 nor more than 120 days following the recall election, and any other matter pertaining to such election shall be provided for in such ordinance. The votes at such special election shall be canvassed and the results thereof declared by the City Council in the same manner as in a regular election.

The Charter of the City of Los Angeles is hereby amended by adding Section 291.2 thereto to read as follows:

Sec. 291.2. Notwithstanding any other provision of this Charter, if the vote at any recall election shall recall a Member of the Board of Education of the City of Los Angeles, then the candidate who receives a majority of the votes cast for candidates to succeed the officer removed shall be thereby declared elected for the remainder of the term. If no candidate receives a majority of such votes cast, the Council by ordinance shall call another special election within the district from which the Member was recalled for the purpose of submitting to the electorate therein the names of the two candidates to succeed the recalled Member who received the highest number of votes at the recall election and determining by a majority vote who shall be elected to succeed the recalled Member. The time for holding such election, which shall be not less than 60 or more than 120 days following the recall election, and any other matter pertaining to such election shall be provided for in such ordinance. The votes at such special election shall be canvassed and the results thereof declared by the City Council in the same manner as in a regular election.

The Charter of the City of Los Angeles is hereby amended by adding thereto Section 292.1 to read as follows:

Sec. 292.1. Notwithstanding the provisions of Section 292, the following shall apply to recall proceedings with respect to the Mayor, the City Attorney, the Controller and Members of the City Council. Any incumbent of one of the above offices whose removal is sought under the provisions of this article may file with the City Clerk, at least eighty-five days prior to such recall election, a statement of not more than two thousand words in length, justifying such incumbent's course in office; and the person filing such recall petition, or the person or organization on whose behalf a recall petition was filed, shall have the right to present to the City Clerk, within the same limit of time, a statement in support of such recall of not exceeding two thousand words in length. All statements filed under this section in connection with the recall of a particular officer shall be printed in the voter information pamphlet in the same format and type size, which format and type size, no smaller than six point and no larger than ten point type, the City Clerk shall prescribe. The person or organization submitting any such statement shall reimburse the City Clerk for all expenses incurred in printing such statement in the voter information pamphlet.

The Charter of the City of Los Angeles is hereby amended by adding Section 292.2 thereto to read as follows:

Sec. 292.2. Notwithstanding the provisions of Section 292, the following shall apply to proceedings with respect to recall of Members of the Board of Education. Any Member of the Board of Education whose removal is sought under the provisions of this article may file with the City Clerk, at least eighty-five days prior to such recall election, a statement of not more than two thousand words in length, justifying such Member's course in office; and the person filing such recall petition, or the person or organization on whose behalf a recall petition was filed, shall have the right to present to the City Clerk, within the same limit of time, a statement in support of such recall of not exceeding two thousand words in length. All statements filed under this section in connection with the recall of a particular officer shall be printed in the voter information pamphlet in the same format and type size, which format and type size, no smaller than six point and no larger than ten point type, the City Clerk shall prescribe. The person or organization submitting any such statement shall reimburse the City Clerk for all expenses incurred in printing such statement in the voter information pamphlet.

Certified to be a true copy by John Ferraro, President, City Council and Rex E. Layton, City Clerk.

Date of Special City Election: November 4, 1980.

Charter Chapter 25—City of Richmond

*Amendments to the Charter of the
City of Richmond*

[Filed with the Secretary of State December 10, 1980]

Article III-A is added to said Charter to read:

ARTICLE III-A

The Mayor

Sec. 1. Elected Mayor. There shall be a Mayor of the City of Richmond who shall have the powers and duties and shall be elected by the voters in the manner set forth herein.

Sec. 2. Powers and Duties of the Mayor. The Mayor shall be a member of the City Council and shall have all of the powers and duties of a member of the Council unless otherwise specified herein. In addition, the Mayor shall have the following powers and duties:

(a) Political Position. The Mayor shall be the chief elected officer and ceremonial head of the City, responsible for providing civic leadership and taking issues to the people, and marshalling public interest in and support for municipal activity. The Mayor shall be concerned with the general development of the community and the general level of City services and activity programs and may develop and inform City residents of policies and programs which he or she believes are necessary for the

welfare of the City.

(b) Policy, Program and Budget. The Mayor may make recommendations to the City Council on matters of policy and program which require Council decision and may propose ordinances and resolutions for Council consideration. The Mayor shall work with the City Manager in preparing an annual budget for submission to the City Council. The Mayor shall make an annual report to the City Council as to the conditions and affairs of the City.

(c) Appointments and Removals. The Mayor shall have the authority at any regularly scheduled meeting of the City Council to appoint qualified persons to fill vacancies occurring on City boards, commissions and committees, including vacancies for unexpired terms of office. For the City Personnel Board, General Pension Fund Board and the Police and Fire Pension Fund Board, these provisions apply to vacancies designated by the City Charter to be filled directly by the City Council. The Mayor may at any regularly scheduled meeting of the City Council remove any individual from a City board, commission or committee at will. The Council may override an action by the Mayor to appoint or remove an individual from a board, commission or committee by the affirmative vote of five members of the Council. An action by the Council to override an appointment to or removal from a City board, commission or committee by the Mayor must be done within 15 days of such appointment or removal. No appointment or removal by the Mayor shall become effective until the time in which the City Council may override such action by the Mayor has elapsed.

(d) Relationship with City Council. The Mayor shall be a voting member of and preside over meetings of the City Council. The Mayor shall annually appoint standing committees of the City Council; provided that the Mayor shall not be a member of such committees. Reports of the standing committees shall be made at regular City Council meetings or whenever the Mayor shall so require.

(e) Continuance Authority. The Mayor shall have the authority to continue any item being considered by the City Council at a Council meeting for up to two weeks. The Council may override an action taken by the Mayor to continue an item by the affirmative vote of five members of the Council.

(f) Administrative Responsibility. The Mayor shall sign all contracts on behalf of the City which are acted upon and approved by the City Council unless otherwise delegated by the City Council to a City official or employee, and shall exercise such other powers and duties as provided in this charter and ordinances and resolutions of the City.

Sec. 3. Election of Mayor; Term of Office; Nomination. (a) At the election scheduled to be held in this City in 1981 for the election of persons to fill four offices of City Councilman to succeed the four members of the City Council whose terms expire, one of those offices shall be designated as the office of Mayor to be filled at such election and to be so filled at future elections every 4 years thereafter. The term of office of the Mayor shall be 4 years and shall commence on the second Monday following his or her election. No person may serve as Mayor for more than two full

terms.

(b) The procedure for nomination of candidates for the office of Mayor shall be the same as for the nomination of candidates for the office of City Councilman as set forth in the City Charter. A person shall be eligible to hold the office of Mayor if the person is an elector of this City and is a registered voter of this City at the time of the filing of the petition for nomination of the person as a candidate for the office of Mayor. If, during a Mayor's term of office such person moves his or her place of residence outside of the limits of this City or ceases to be an elector of this City, such person's office shall immediately become vacant.

(c) A person may not, in connection with the same election, be a candidate for both the office of City Councilman and the office of Mayor, and in any instance where a person happens to be nominated as a candidate for both of such offices concerning the same election, each nominating petition shall be null and void unless the candidate shall designate on a form provided by the City Clerk which office he shall be a candidate for and, upon making such designation, his or her name shall appear on the ballot as a candidate for the designated office if such form is filed with the City Clerk within the period set forth in this charter for the filing of a nominating petition for the office designated.

(d) The ballot at an election where the office of Mayor is to be filled shall designate the office, and the candidates therefor, separate and apart from the candidates for the office of City Councilman.

Sec. 4. Vice Mayor. The City Council shall elect from among its members a Vice Mayor. In the absence or disability of the Mayor, the Vice Mayor shall serve as the Mayor. The Vice Mayor shall also represent the Mayor upon his or her request. The Vice Mayor shall serve for a term of one year.

Sec. 5. Filling Vacancy in the Office of Mayor. If there is a vacancy in the office of Mayor, the Vice Mayor shall serve as the Mayor until a new Mayor is elected and takes office. A special election shall be called by the City Council and held to elect a new Mayor, to serve for the unexpired term of the former Mayor, within a period of 180 days from the date of the vacancy unless a regular election is scheduled to be held to elect a Mayor within 365 days from the date of the vacancy. If such special election is required to be held, the City Council may, by resolution, consolidate it with an election of this City or of any other public agency if the next election of this City or of the other public agency is to be held within 365 days from the date of the vacancy. Such special election shall be held in accordance with the applicable general laws of the State of California governing elections within municipalities unless otherwise provided by ordinance adopted by the City Council. For purposes of this section, a vacancy shall be deemed to exist if the Mayor, without the permission of the Council, absents himself from all regular City Council meetings for 30 days consecutively from the last regular meeting he attended.

Sec. 6. Compensation. The Mayor shall be paid a salary of Twelve Hundred Dollars (\$1,200) per month. Said compensation may be increased by ordinance adopted by the affirmative vote of five members of the City Council, not counting the Mayor. Such ordinance shall be subject

to referendum. In addition, the Mayor shall be reimbursed for expenses necessarily incurred in the performance of his powers and duties. The Mayor shall not receive the salary payable to City Councilmen.

Sec. 7. The provisions of this Article III-A shall prevail over any other provision or provisions of this Charter which may be inconsistent with the provisions of this Article III-A.

Section 8 of Article III of said Charter is hereby repealed.

Certified to be a true copy by Lonnie C. Washington, Jr., Mayor and Harlan J. Heydon, City Clerk.

Date of General Election: November 4, 1980.

Charter Chapter 26—City of Long Beach

Amendments to the Charter of the City of Long Beach

[Filed with the Secretary of State December 12, 1980]

That the Charter of the City of Long Beach is amended by renumbering Sections 5, 187.5, 187.6, 202h, 240, 262 and 263; repealing Articles I and II and Sections 18, 22, 23, 27, 31, 32, 33, 37, 38, 39, 52, 85.1, 86, 88a, 101.5, 101.6, 101.7, 104, 105, 107, 110, 113, 128, 129, 130, 131.5, 131.6, 132.120, 132.125, 132.130, 132.135, 132.140, 132.145, 132.155, 132.165, 133.100, 133.105, 133.110, 133.115, 134.100, 135.100, 137.100, 137.105, 137.110, 137.115, 137.120, 137.125, 138.100, 139.100, 139.105, 139.110, 140.100, 141.100, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187.1, 194, 196, 197, 198, 199, 200, 201, 202, 202a, 202d, 202e, 202f, 202i, 202j, 202k, 202-l, 202m, 202o, 202p, 211, 212, 213, 217c, 217d, 224, 227, 227a, 228a, 229, 229g, 229m, 229r, 232, 233, 235, 241, 255, 256, 257, 260.9, 261, 267, 272, 273, 275, 276, 278, 279, 281, 282, 283, 284, 285, 286, 287, 291, 292, 300, 301, 302, 303a, 324, 329, 330, 337, 338, 340 and 344; amending, renumbering and consolidating Sections 1a, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 14(1), 15, 16, 17, 19, 20, 21, 24, 25, 26, 28, 29, 30, 34, 35, 35(1), 36, 40, 41, 42, 43, 44, 45, 46, 47, 48, 51, 54, 55, 84, 85, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 106, 108, 111, 112, 114, 115, 116, 117, 118, 119, 120, 132.100, 132.105, 132.110, 132.115, 132.150, 132.160, 132.170, 136.100, 202b, 202c, 202g, 202n, 203, 204, 205, 206, 207, 208, 209, 210, 210a, 215, 215a, 215b, 215c, 216, 216a, 216b, 216c, 216d, 217, 217a, 217b, 217e, 218, 218a, 218b, 219, 220, 221, 222, 223, 223a, 224a, 225, 226, 227b, 227c, 228, 229a, 229b, 229c, 229d, 229e, 229h, 229h(1), 229i, 229j, 229k, 229-l, 229n, 229o, 229p, 229q, 229s, 229t, 230, 231, 234, 250, 251, 252, 253, 254, 258, 260, 260.1, 260.2, 260.3, 260.4, 260.5, 260.7, 260.10, 264, 265, 266, 266.1, 266.2, 268, 269, 270, 271, 277, 280, 290, 293, 294, 294.1, 294.2, 295, 296, 297, 298, 299, 303, 303b, 304, 305, 315, 316, 317, 317a, 318, 332, 334, 335, 336, 342, and 343; and adding new sections all to read as set forth below;

LONG BEACH CITY CHARTER

ARTICLE I. INCORPORATION, ORGANIZATION AND POWERS

Section 100. NAME.

The City of Long Beach, hereinafter called City, shall continue to be a municipal corporation under its present name, City of Long Beach.

Sec. 101. BOUNDARIES.

The boundaries of the City shall be as they now exist, or as they may be changed in the future.

Sec. 102. FORM OF GOVERNMENT.

The municipal government shall continue to be known as the Council-Manager form of government.

Sec. 103. COUNCILMANIC DISTRICTS.

The City shall be divided, for electoral purposes, into nine (9) Councilmanic Districts approximately equal in population. Commencing the second quarter of 1981 and at intervals of five (5) years, or at any other time the City Council may direct, the Planning Commission shall ascertain the number of inhabitants in each Councilmanic District and report its findings to the City Council. If the report shows that the Councilmanic Districts are not approximately equal in number of inhabitants, the City Council shall, by ordinance, redistrict the City into nine (9) Councilmanic Districts, each having approximately an equal number of inhabitants.

Any territory hereafter annexed to the City shall become a part of the Councilmanic District or districts adjoining such annexed territory. The City Council shall by ordinance alter the boundaries of the affected district or districts.

Sec. 104. RIGHTS AND LIABILITIES OF THE CITY.

The City shall continue to own, possess, and control all rights and property of every kind and nature owned, possessed, or controlled by it at the time this Charter takes effect and shall be subject to all its legally enforceable debts, obligations, liabilities and contracts.

Sec. 105. ORDINANCES, CODES AND OTHER REGULATIONS.

All ordinances, codes, resolutions, rules, regulations and portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until they shall have been duly repealed, amended, changed or superseded.

Sec. 106. PRESENT EMPLOYEES.

Subject to the provisions of this Charter, the present employees of the City shall continue to perform their respective duties until changes in their positions are made, or until reassigned, removed or replaced in the manner prescribed by this Charter, City ordinances or procedural regulations.

Sec. 107. PRESENT ELECTED OFFICERS AND MEMBERS OF COMMISSIONS.

All elected officers and members of commissions holding office shall continue to hold office thereafter until their respective terms of office shall expire and until their successors shall be elected or appointed and qualified. This section shall apply only to elected offices and commissions which are continued in existence under this Charter. The terms of the members of any existing commission shall be adjusted by resolution of the City Council, if necessary, to comply with the provisions of this Charter.

Sec. 108. PENDING ACTIONS AND PROCEEDINGS.

No action or proceeding, civil or criminal, pending at the time when this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or anything herein contained.

Sec. 109. POWERS.

The City shall have all powers possible for a City to have under the Constitution and Laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. Specifically, but not by way of limitation, the City shall have the power to make and enforce all laws and regulations with respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges heretofore or hereafter established, granted, or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

Sec. 110. LICENSING POWER. (REINSTATEMENT AND CONTINUATION BY RENUMBERING PRE-EXISTING CHARTER SEC. 5, ADOPTED NOVEMBER 6, 1973)

The City shall have the power to license for the purpose of revenue or regulation, or both, every kind of lawful business transacted in the City and fix the license tax therefore.

Sec. 111. INTERGOVERNMENTAL RELATIONS.

The City may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, districts, states, or civil divisions or agencies thereof, or the United States or any agency thereof. The City may delegate the exercise of its powers or the performance of any of its functions to any city, county, district, state, civil division or agencies thereof, or the United States or any agency thereof. The City may contract for performance by its officers and employees of any county, state or federal powers, functions or duties authorized or required to be performed by any county, state or federal officers or employees within the territorial limits of the City.

ARTICLE II. CITY COUNCIL**Section 200. MEMBERS AND TERMS.**

The City Council shall consist of nine (9) Council members elected to office in a manner provided in this Charter, one from each of the Councilmanic Districts into which the City has been divided. The term of office shall be four (4) years. Alternatively, and successively, odd numbered districts shall be filled at one general municipal election and even numbered districts at the next such election. The term of a City Council member shall commence on the third Tuesday of July following his or her election, and he or she shall serve until his or her successor qualifies. Any ties in voting shall be settled by the casting of lots under the supervision

of, and in such manner and place as the City Clerk decides.

Each City Council member in office at the time this Charter takes effect shall continue in office until the end of the term for which he or she was elected or appointed subject to the right of the people to recall a City Council member from office as provided herein.

Sec. 201. ELIGIBILITY.

No person shall be eligible to hold the office of City Council member unless such person is a legally registered voter and resident of the Councilmanic District from which nominated for at least thirty (30) days immediately preceding the first day upon which candidates are permitted to file nominating petitions for such office with the City Clerk.

Sec. 202. MAYOR.

The City Council shall, at its organizational meeting, elect from among its members a Mayor and Vice-Mayor, each of whom shall serve for two (2) years. The Mayor shall preside at meetings of the City Council, shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law, but shall have no administrative duties. The Vice-Mayor shall act as Mayor during the absence or disability of the Mayor and if a vacancy occurs, shall become Mayor for the remainder of the unexpired two (2) year term. A vacancy in the office of Vice-Mayor, for any reason, shall be immediately filled by election from the remaining members of the City Council.

Sec. 203. SALARY.

Each member of the City Council shall receive a salary the amount of which shall be determined in the manner and by the schedule in Section 36516 of the Government Code of the State of California as now set forth therein or as it may hereafter be amended by the State Legislature. The salary may be increased or decreased as provided in Sections 36516 and 36516.2 of said Government Code as now set forth therein or as such sections may hereafter be amended by the State Legislature.

Sec. 204. VACANCIES IN CITY COUNCIL.

Absence from five (5) consecutive regular meetings, unless excused by resolution of the City Council, shall operate to vacate the seat of any City Council member so absent.

Whenever a vacancy in the City Council shall occur, such vacancy shall be filled at a special election to be called for that purpose. A vacancy shall be deemed to have occurred upon the date of the adoption by the City Council of a resolution finding and determining that such vacancy has occurred. In the event a City Council member is recalled, the vacancy shall be deemed to have occurred upon the date the election results are declared by the City Council. Any City Council member so recalled shall continue to hold his office until his successor is duly elected and qualified.

The election to fill a vacancy shall be held in the district from which the City Council member is to be elected, and shall be called within sixty (60) days after the declaration of such vacancy by the City Council. Said election shall be held within one hundred twenty (120) days after the declaration of such vacancy, unless the same is declared within one hundred twenty (120) days of a primary nominating election provided for in this Charter, in which event such vacancy may be filled by the City Council

by appointment. Such special election shall be held within such district in the manner to be provided by the City Council by resolution.

To be eligible to be appointed or elected to fill a vacancy in the City Council, a person must have been a legally registered voter and resident in the district where the vacancy occurs for at least thirty (30) days immediately preceding the date of appointment or the first day upon which candidates are permitted to file nominating petitions for the office with the City Clerk.

No person appointed as a successor to serve during the remainder of a Councilmanic term in which a vacancy occurs shall be designated on any ballot or voter pamphlet as an incumbent, a member of the City Council, or other designation indicating incumbency, for purposes of the next primary and general elections for members of the City Council.

Sec. 205. POWERS VESTED IN THE CITY COUNCIL.

Except as otherwise provided in this Charter, all powers of the City shall be vested in the City Council.

Sec. 206. CITY COUNCIL ORGANIZATION, MEETINGS AND RULES OF ORDER.

The time, place and method of calling meetings and the rules of order for the conduct of proceedings by the City Council shall be as established by ordinance. A majority of the councilmembers in office shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time, or may compel the attendance of other members in such manner and under such penalties as those present may prescribe.

Sec. 207. LEGISLATIVE DEPARTMENT.

There is hereby created a Legislative Department which shall be under the direction and control of the City Council. This department shall consist of the City Council, the City Clerk, and all assistants, secretaries, stenographers and clerical help in the office of the City Clerk and such employees as may be deemed necessary to serve in the office of the Mayor and City Council to aid them in fulfilling their legislative duties in gathering, organizing and analyzing data and information relating to matters requiring legislative action.

Sec. 208. CITY COUNCIL'S AUTHORITY OVER CITY EMPLOYEES.

Neither the City Council, nor any of its committees or members shall dictate or attempt to dictate, either directly or indirectly, the appointment of any person to office or employment by the City Manager, or in any manner interfere with or prevent the City Manager, from exercising judgement in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry, the City Council its members and employees of the Legislative Department shall deal with the administrative service solely through the City Manager, and neither the City Council, its members and employees of the Legislative Department shall give orders to any of the subordinates of the City Manager, either publicly or privately.

Sec. 209. CITIZEN PARTICIPATION.

Subject to the rules governing the conduct of City Council meetings, any citizen, personally or through counsel, shall have the right to address

the City Council or its standing committees on matters of public business at any meeting.

Sec. 210. ORDINANCES, RESOLUTIONS AND ORDERS.

Ordinances and resolutions are the formal acts of the City Council reduced to writing and passed under legal restrictions governing action thereon. Orders include all other acts which, being less formal in character, require only to be passed by the majority of the City Council present and spread upon the minutes.

No ordinance shall be placed upon its final passage upon the same day it has been introduced, except emergency measures as provided in this Charter. Neither ordinance nor resolution shall be in full force and effect unless it shall have received the affirmative votes of not less than five (5) members of the City Council.

No ordinance passed by the City Council shall go into effect before the expiration of thirty (30) days from the time of its final passage, except when otherwise required by the general laws of the State of California, by the provisions of this Charter, or emergency ordinances.

Sec. 211. EMERGENCY ORDINANCES.

The City Council may, by vote of five (5) of its members, pass emergency ordinances for the immediate preservation of the public peace, health and safety, to take effect at the time indicated therein. Emergency ordinances shall contain a separate section in which the emergency is particularly set forth and defined. A separate roll call on the question of the emergency shall be taken. Ordinances appropriating money may be passed as emergency ordinances.

Sec. 212. POSTING ORDINANCES.

The City Clerk shall cause each ordinance to be posted in at least three (3) public places in the City unless publication is requested by the City Council or otherwise required by law.

ARTICLE III. CITY MANAGER

Section 300. SELECTION AND QUALIFICATIONS.

The City Council shall appoint a City Manager who shall be the chief administrative officer of the City. The City Manager shall be responsible for the administration of all departments except the City Attorney, City Auditor, City Prosecutor, Civil Service Department, Legislative Department, Harbor Department and Water Department. The City Council shall appoint the person deemed best qualified on the basis of executive and administrative capabilities, with special reference to experience in, and knowledge of, accepted practices with respect to the duties of the office as set forth in this Charter. The City Manager shall be appointed for an indefinite period and cannot be removed from office except by a vote of five (5) members of the City Council.

Sec. 301. ASSISTANT CITY MANAGER.

The City Manager shall have the power to appoint, with the confirmation of the City Council, an Assistant City Manager, who shall be empowered to perform all duties of the City Manager in the event of the absence or disability of the City Manager and such other duties as the City Manager shall direct. The Assistant City Manager shall serve at the pleasure of the

City Manager.

Sec. 302. POWERS AND DUTIES OF THE CITY MANAGER.

The City Manager shall have the following powers and duties:

(a) To direct and supervise the administration of all Manager-directed departments of the City.

(b) To appoint, suspend and remove all City employees in both the classified and unclassified service; except that for the classified service, such powers shall be pursuant to the Civil Service provisions of this Charter, Civil Service rules, regulations and ordinances; and except the City Clerk's Department and the elective officers and their appointees and such officers and employees as shall be subject to appointment by the City Council.

(c) To see that all laws, ordinances, orders, resolutions, contracts and franchises are enforced and executed.

(d) To attend all City Council meetings or councilmanic committee meetings; and to have the right to participate in the discussion without vote.

(e) To prepare and submit the annual budget; and to keep the City Council fully advised as to the financial condition and needs of the City, including the filing of an annual and interim financial reports.

(f) To submit such reports as the City Council may require concerning the operations of Manager-directed departments, and to recommend to City Council the adoption of measures deemed advisable.

(g) To perform such other duties as are specified in the Charter, by law or required by City Council.

Sec. 303. VACANCY.

Whenever a vacancy occurs in the office of the City Manager, the City Council shall proceed immediately to appoint a City Manager. Until a City Manager is appointed and has assumed the duties of the office, the Assistant City Manager shall be designated as Acting City Manager. He shall perform all of the duties of City Manager and be vested with all the powers of City Manager as set forth in this Charter. The Assistant City Manager shall continue in the position of Acting City Manager until a new City Manager has been appointed and has assumed the duties of that office.

ARTICLE IV. CITY CLERK

Section 400. APPOINTMENT.

The City Council shall appoint a City Clerk who shall serve at the pleasure of the City Council.

Sec. 401. POWERS AND DUTIES.

The City Clerk or a duly authorized representative shall:

(a) Attend all meetings of the City Council and be responsible for the recording and maintaining of a full and accurate record of all of the proceedings of the City Council showing aye and no votes in all matters voted upon by the City Council.

(b) Maintain separate records, in which shall be set forth respectively all ordinances and resolutions, with the certificate of the City Clerk annexed to each document stating that said document is the original or a correct copy; and with respect to an ordinance, stating that said ordinance has

been posted or published in accordance with this Charter. All of said records shall be properly indexed and open to public inspection.

(c) Maintain separate records for which an index shall be included of all written contracts and official bonds.

(d) Be the custodian of the Seal of the City.

(e) Administer oaths or affirmations and take affidavits pertaining to the affairs and business of the City; and certify copies of official records.

(f) Conduct all City elections.

(g) Except as herein provided, act as Clerk of any commission of the City, or any committee if so designated by the City Council; keep full and accurate records of their proceedings; keep full and accurate records of membership and impending vacancies on all commissions, advisory committees and similar agencies.

(h) Perform such other duties as may be prescribed by the City Council.

Sec. 402. ASSISTANTS.

The City Clerk shall appoint such assistants and other staff necessary to perform the duties of the office.

ARTICLE V. OFFICERS AND EMPLOYEES

Section 500. OFFICERS OF THE CITY.

The officers of the City shall be:

Nine members of the City Council

City Attorney

City Auditor

City Prosecutor

City Manager

Assistant City Manager

City Clerk

Five members of the Civil Service Commission

Five members of the Harbor Commission

Five members of the Water Commission

Seven members of the Planning Commission

Nine members of the Recreation Commission

All department heads and other persons who in the exercise of their duties perform governmental functions of the City

Officers created by general state law, City ordinance or resolution

Sec. 501. ADMINISTRATIVE DEPARTMENTS.

The City Council may establish by ordinance departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies. The City Council may consolidate departments or divisions of departments provided that no department headed by an elective officer shall be consolidated with or subordinated to any other department or any division of any other department. The City Council may provide by resolution for the number and titles of all City officers and employees.

Sec. 502. RESIDENCE.

Unless expressly provided in this Charter to the contrary, no person shall be eligible to nomination for election to any office who at the time

of his or her nomination and election is not a legally registered voter of the City, and shall not have been a bona fide resident of the City or territory legally annexed thereto, for at least thirty (30) days immediately preceding the first day upon which candidates are permitted to file nominating petitions for such office with the City Clerk.

No person shall be eligible for appointment to any membership on any charter mandated commission, who at the time of his or her appointment, is not a legally registered voter of this City, and shall not have been a bona fide resident of the City or territory legally annexed thereto, for at least thirty (30) days immediately preceding the date of his or her appointment. No person shall be eligible for either election or appointment to any office or to any membership on any Charter mandated commission, or for appointment as an assistant, deputy, clerk, or other employee of any officer or commission, or to appointment to any position of employment whatsoever in the service of the City, who on the date of his or her election or appointment, shall be in litigation against the City.

All elective officers and all member of charter mandated commissions, must be bona fide residents of the City and maintain their respective places of abode within its corporate limits at all times during which they hold such office, or are members of any such Charter mandated commission. The term, "places of abode", as used herein, shall mean not only the legal or technical residence or domicile, but also actual abode in fact.

Any elective officer, member of a charter mandated commission upon his or her failure to comply with and abide by the requirements as to residence and place of abode as hereinbefore set forth, shall be thereby immediately disqualified from holding such office or membership. The tenure of such officer or member shall be immediately terminated.

Sec. 503. SALARY OF OFFICERS AND EMPLOYEES.

Each officer and each employee shall receive such compensation for services as may be prescribed by resolution of the City Council or duly fixed by resolution of the Commission having jurisdiction under this Charter. The salaries or compensation proposed to be fixed by such Commission shall be subject to the prior approval of the City Council by resolution.

Time and method of payment of salaries of all officers and employees, including those whose salary is set by an authority other than the City Council, shall be prescribed by the City Council. Frequency of payment shall be not less than twice each calendar month.

Sec. 504. DEFERRED COMPENSATION.

Notwithstanding any other provision of this Charter, the City may establish a deferred compensation plan in accordance with applicable State and Federal laws and regulations. Officers and employees who enter into an agreement with the City under such a deferred compensation plan shall be deemed to have been compensated pursuant to Section 503 of this Charter.

Sec. 505. HOURS OF OFFICERS AND EMPLOYEES.

All elective and appointive officials, their assistants, deputies and clerks, and other employees of the City shall devote their entire time during business hours to the duties of their respective offices, or employment.

The City Attorney, City Prosecutor, City Auditor, City Manager, Executive Director of the Harbor Department and the General Manager of the Water Department, shall not engage in any other business or practice during their respective tenure of office or employment. The members of the City Council and members of any commission are specifically exempted from the provisions of this section. The provisions of this section shall not be applicable to professional or technical assistants temporarily employed by the City or an autonomous commission to assist or advise any City departments. Any ordinance adopted by the City Council regulating the employment of officers and employees of the City outside business hours shall be applicable to, and binding upon, officers and employees of all City Departments, including autonomous departments.

Sec. 506. TERM OF OFFICE.

All officers elected under this Charter shall take office on the third Tuesday of July after their election and shall hold office until their successors are elected and qualified. The provisions of this section shall not apply to the members of the Board of Education.

Sec. 507. VACANCIES IN NON-COUNCILMANIC ELECTIVE OFFICES.

In the event of a vacancy for any reason in any elective office, except City Council members, the vacancy shall be filled for the unexpired term by the City Council unless otherwise expressly provided in this Charter.

No person shall be eligible for appointment to a vacancy in any elective office who at the time of such appointment is not a legally registered voter of this City and shall not have been a resident of the City for at least thirty (30) days immediately preceding such appointment.

If a person elected or appointed to any office shall fail to qualify within ten (10) days after receipt of his certificate of election or notice of appointment, the office shall be declared vacant by the City Council, and shall be filled as if there were a vacancy.

Sec. 508. TERMS OF COMMISSION MEMBERS.

The term of office of members of the Commissions set forth in this Charter shall be four (4) years, except that the term of office of members of the Harbor Commission shall be six (6) years and the term of office for Water Commission members shall be five (5) years, beginning with the first Monday after the first day of July following their respective appointments, and until their successors are appointed and take office. No person shall serve more than two (2) full terms on any one Commission. Serving any portion of an unexpired term shall not be counted as service of one term on such Commission.

Sec. 509. APPOINTMENT OF COMMISSION MEMBERS.

At the expiration of the term of each member of the Commissions established by this Charter, the Mayor shall appoint a successor, subject to confirmation by an affirmative vote of a majority of the Councilmembers in office at that time. Should a vacancy occur for any reason other than by expiration of a term, the Mayor, subject to confirmation by an affirmative vote of a majority of the Councilmembers in office at that time, shall appoint a successor to fill such vacancy for the unexpired term. The Mayor in making appointments to each such Commission shall stagger the

terms of the Commission members so as to provide a continuity of experienced members on each Commission. Membership on the Recreation Commission and the filling of vacancies thereon shall be as set forth in Article IX hereof.

Sec. 510. REMOVAL OF COMMISSION MEMBERS.

The City Council may by a vote of a majority of its members remove any member of a Charter-mandated Commission at any time upon stating in writing, the reasons for such removal and allowing the member an opportunity to be heard by the City Council. Any member of a Charter-mandated Commission may be removed for incompetence, malfeasance, misfeasance, neglect of duty or conviction of a crime involving moral turpitude.

Sec. 511. APPOINTMENT OF IMMEDIATE FAMILY VOID.

No officer, commission or member of any Commission of this City shall recommend the appointment of, appoint, vote for or elect to any office, position or employment, in any department of the City government any member of said officer's or commission member's immediate family. For purposes of this section the term "immediate family" shall mean wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, step-child, or any person who regularly cohabits with or uses the domicile of said officer or commission member as his or her residence. Any appointment made in violation of this section shall be void and of no effect.

ARTICLE VI. CITY ATTORNEY

Section 600. DEPARTMENT OF LAW.

The Department of Law shall consist of the City Attorney, and such employees as the City Council may provide for in the budget.

Sec. 601. QUALIFICATION AND TERM OF OFFICE OF THE CITY ATTORNEY.

The City Attorney shall be elected by the qualified electors of the City, and shall hold office for four (4) years, and until his successor shall have been elected and qualified. He must be qualified to practice in all the courts of the State of California, and must have been so qualified for at least five (5) years immediately preceding the first day upon which candidates for the office of the City Attorney are permitted to file nominating petitions for such office with the City Clerk.

Sec. 602. APPOINTMENTS BY THE CITY ATTORNEY.

The City Attorney shall appoint all members of the Department of Law, for whose acts he shall be responsible. Such appointees shall serve at the pleasure of the City Attorney. All assistants and deputies of the City Attorney, at the time of their appointment, must have been qualified to practice in all courts of the State of California for one year immediately preceding the date of their appointment.

Sec. 603. POWERS AND DUTIES OF THE CITY ATTORNEY.

The City Attorney shall have the following powers and duties:

(a) To be the sole and exclusive legal advisor of the City, the City Council and all City commissions, committees, officers and employees

with reference to all of their functions, powers and duties under this Charter, State and Federal law;

(b) To draft all ordinances, contracts, and other legal documents;

(c) To attend to all suits, matters and proceedings in which the City may be legally interested;

(d) To defend all suits for damages instituted against officers and employees and former officers and employees for acts performed by them in furtherance of their duty while in the employ of the City;

(e) To approve in writing the form of all bonds required by the City and all contracts before the same are entered into on behalf of the City;

(f) To investigate and enforce on behalf of the City all provisions of this Charter, of the general law applicable to municipal corporations, and of the ordinances of the City, in all courts in the State of California, except criminal cases.

The City Council shall have control of all litigation of the City, to the extent that the relationship between attorney and client permits or authorizes such control by the client; and at the request of the City Attorney, may employ other attorneys to assist the City Attorney.

Sec. 604. VACANCY IN THE OFFICE OF THE CITY ATTORNEY.

In the event of a vacancy in the office of the City Attorney, for any reason, the City Council shall designate an Assistant City Attorney or Deputy City Attorney, who shall become the Acting City Attorney and shall serve in that position until the City Council appoints a successor for the unexpired balance of the term. Any person serving as Acting City Attorney must possess the qualifications prescribed for the City Attorney.

ARTICLE VII. CITY PROSECUTOR

Section 700. DEPARTMENT OF THE CITY PROSECUTOR.

The Department of the City Prosecutor shall consist of the City Prosecutor and such employees as the City Council may provide for in the budget.

Sec. 701. QUALIFICATION AND TERM OF OFFICE OF THE CITY PROSECUTOR.

The City Prosecutor shall be elected by the qualified electors of the City and shall hold office for four (4) years, and until his successor shall have been elected and qualified. He must be qualified to practice in all the courts of the State of California and must have been so qualified at least five (5) years immediately preceding the first day upon which candidates for the Office of City Prosecutor are permitted to file nominating petitions for such office with the City Clerk.

Sec. 702. APPOINTMENTS BY THE CITY PROSECUTOR.

The City Prosecutor shall appoint all members of the Department of the City Prosecutor for whose acts he shall be responsible. Such appointees shall serve at the pleasure of the City Prosecutor. All assistants and deputies of the City Prosecutor must, at the time of their appointment, have been, for one (1) year immediately preceding the date of their appointment, qualified to practice in all of the courts of the State of California.

Sec. 703. POWERS AND DUTIES OF THE CITY PROSECUTOR.

The powers and duties of the City Prosecutor shall be as follows:

(a) The City Prosecutor shall institute, attend and conduct, on behalf

of the people, all criminal cases arising upon violations of Charter provisions or City ordinances, in the court of original jurisdiction, and on appeal.

(b) The City Prosecutor shall draw complaints in such cases, and prosecute all recognizances and bail bonds forfeited in said cases. He shall prosecute all actions for the recovery of fines, penalties and forfeitures and other money accruing to the City under penal statutes or ordinances.

(c) Whenever it shall be authorized by the laws of this State, the City Prosecutor shall prosecute any or all misdemeanor offenses arising upon violation of the laws of the State and appeals arising therefrom. He shall draw complaints for misdemeanors committed against the laws of this State, prosecute all recognizances and bail bonds forfeited in such misdemeanor cases and prosecute all actions for the recovery of fines, penalties and forfeitures accruing to the City or the County of Los Angeles.

(d) If any person held in custody and charged with having committed a criminal offense against the Charter provisions or City ordinances, or with having committed a misdemeanor or other offense in the City against State law applies for a writ of habeas corpus, a copy of the application for such writ must be served upon the City Prosecutor at such times and in such manner as may be provided by such law. It shall be the duty of the City Prosecutor to conduct all proceedings relating to the application for or hearing upon such writ on behalf of the people. In all matters of habeas corpus in which the constitutionality of any law or ordinance has been raised, and in all appeals in which the constitutionality of any law or ordinance has been raised, the City Prosecutor must immediately notify the City Attorney thereof. The City Attorney may in his discretion become associated with the City Prosecutor in any such action or proceeding and have charge of such litigation.

(e) Subject to approval of the City Council, the City Prosecutor shall be allowed such investigation funds as necessary to perform the duties set forth herein; and may employ special investigators in connection therewith.

(f) The City Prosecutor shall prosecute, attend and conduct on behalf of the City Manager or other appointing authorities at their request, all hearings before the Civil Service Commission.

(g) The City Prosecutor shall draft penal ordinances and shall render opinions relative to penal ordinances upon the request of the City Council, City Manager and department heads.

Sec. 704. VACANCY IN THE OFFICE OF THE CITY PROSECUTOR.

In the event of a vacancy in the office of the City Prosecutor, for any reason, the City Council shall designate an Assistant City Prosecutor or Deputy City Prosecutor, who shall become the Acting City Prosecutor and shall serve in that position until the City Council appoints a successor for the unexpired balance of the term. Any person serving as Acting City Prosecutor must possess the qualifications prescribed for the City Prosecutor.

ARTICLE VIII. CITY AUDITOR**Section 800. OFFICE OF THE CITY AUDITOR.**

The office of the City Auditor shall consist of the City Auditor and such employees as the City Council may provide for in the budget.

Sec. 801. QUALIFICATION AND TERM OF OFFICE.

The City Auditor shall be elected by the qualified electors of the City and shall hold office for four (4) years, and until a successor has been elected and qualified. To qualify for the office of City Auditor, a candidate shall have been a certified public accountant for a period of five (5) or more years on the date of election as City Auditor. On the date of election, the City Auditor shall have a certified public accountant license to practice in the State of California and shall maintain such license during the term of office.

Sec. 802. APPOINTMENTS BY THE CITY AUDITOR.

The City Auditor shall appoint all employees in his office, for whose acts he shall be responsible. Such appointees shall serve at the pleasure of the City Auditor.

Sec. 803. DUTIES OF THE CITY AUDITOR.

The City Auditor shall be the general auditor of the City and of every department, commission and office thereof. The City Auditor, as often as the City Auditor shall deem it advisable, but in any case at least once in each fiscal year, and at such other times as the City Auditor shall be directed by the City Council, shall carefully examine and audit the books, records, accounts, funds and securities of all departments, commissions and offices of the City for the purpose of determining: The accuracy and correctness of such books, records and accounts; that the City and Commissions thereof are receiving all moneys, of whatsoever nature due it or them; and that such moneys are allocated to the funds entitled thereto. Immediately upon the completion of such examination and audit, the City Auditor shall make and file with the City Clerk, in triplicate, a written report thereof. If, during the course of such examination and audit, the City Auditor discovers any irregularities, the City Auditor shall immediately make and file a written report thereof to the City Clerk.

The City Auditor shall verify the cash in the City Treasury at least once a quarter and shall make a written report thereof to the City Council.

Within the time provided by law, the City Auditor shall calculate the property tax rate and certify it to the City Council.

Sec. 804. DISBURSEMENTS AUDIT.

The City Auditor shall regularly review all systems and procedures for the disbursement of City funds and all its departments, commissions, offices and agencies and shall require such controls as deemed necessary to insure that such disbursements are made in accordance with applicable laws, regulations and policies. As evidence of this regular review, the City Auditor shall sign or cause to be affixed his or her facsimile signature to each check or warrant. If the City Auditor objects to a disbursement, the objection may be overruled by a majority vote of the membership of the City Council or by such other independent commission or agency of the City having appropriate jurisdiction. The provisions of this or any other section shall not preclude the authorization and use of imprest cash funds to effect economies in the processing of nominal City expenditures, subject only to advance approval by the City Auditor of procedures, amount

and general purpose of such funds.

Sec. 805. RECEIPTS AUDIT.

The City Auditor shall regularly review all systems and procedures relating to the receipt of funds by the City and all its departments, commissions, offices and agencies and shall require such controls as deemed necessary to insure that such receipts are properly deposited on a timely basis in the City Treasury.

Sec. 806. COPIES OF REPORTS AND CONTRACTS.

A certified copy of every contract in which the City or any of its commissions is a party shall be filed with the City Auditor within ten (10) days after execution. The City Auditor shall be furnished a copy of all reports of a financial nature prepared by any department, commission, office or agency of the City. In the performance of his or her duties, the City Auditor shall have the right of immediate access to all financial records of the City.

Sec. 807. VACANCY IN THE OFFICE OF THE CITY AUDITOR.

In the event of a vacancy in the office of the City Auditor for any reason, the City Council shall designate an assistant as Acting City Auditor who shall serve in that position until the City Council appoints a successor for the unexpired balance of the term. The City Council shall act as expeditiously as possible to appoint a successor having the qualifications prescribed herein.

ARTICLE IX. RECREATION COMMISSION

Section 900. CREATION OF RECREATION COMMISSION.

There is hereby created a Recreation Commission.

Sec. 901. MEMBERSHIP AND TERMS OF RECREATION COMMISSION.

The nine (9) member Recreation Commission shall consist of the City Manager, the Superintendent of Schools, a member of the City Council, and a member of the Board of Education. Subject to confirmation of the City Council, those four (4) designated members shall appoint five (5) other members of the Recreation Commission, who shall not hold an elective office during their four (4) year term on the Commission. In the event a vacancy should occur on the Commission for any reason, the four (4) designated members shall fill the vacancy of the appointed member only for the unexpired term.

The City Manager may delegate the Assistant City Manager, the Superintendent of Schools may delegate an assistant or associate superintendent, and the City Council and Board of Education may delegate one of their members to act as alternate members at meetings of the Commission during the absence of the designated members. Such alternate members shall exercise the full powers of the absent member.

Sec. 902. POWERS AND DUTIES OF THE RECREATION COMMISSION.

The Recreation Commission shall have such exclusive authority over all public leisure activities of a recreational character upon City-owned property as may be prescribed by the City Council by ordinance; and with respect thereto shall have the following powers and duties:

(a) Recommend to City Manager and City Council the acquisition or abandonment of lands, waterways, buildings or other facilities for public recreation.

(b) Exercise control over the operation of public recreation functions under the jurisdiction of the City-School District Coordinated Recreation Plan.

(c) Approve plans for improvement of lands for public recreation.

(d) Approve plans for the construction or improvement of buildings or other facilities to be used for public recreation.

(e) Authorize issuance of permits and the negotiation and execution of leases and contracts in connection with public leisure activities.

(f) Establish fees for public recreation programs and use of recreation facilities.

(g) Perform such other duties as may be delegated by the City Council by ordinance.

Sec. 903. TERMINATION OF JOINT RECREATION ACTIVITIES.

Should it be determined by either the unanimous vote of the Board of Education, or the unanimous vote of the City Council, or of both, that it is advisable to discontinue the coordinated plan of playground and recreation and supervision and administration, as in this Article provided, then written notice of such decision shall be given to the Board or the City Council and one (1) year thereafter such plan shall be discontinued. In that event, the foregoing provisions of this Article shall remain in full force and effect, except that Section 901 shall be superseded by the following language: The Recreation Commission shall be comprised of seven (7) members appointed by the Mayor and confirmed by the City Council. Vacancies shall be filled in the same manner for the unexpired term.

Sec. 904. PLAYGROUND AND PUBLIC RECREATION FUND.

The City Council shall establish a "Playground and Public Recreation Fund." There shall be deposited to this and expended from this fund all fees or monies received by the Recreation Commission, including the proceeds from all gifts, legacies, or bequests or other sources managed or controlled by the Recreation Commission and derived by it in connection with the operation of the public recreation activities and facilities under its jurisdiction. All monies in said fund shall be used for the uses and purposes of public recreation, and not otherwise, and if not used during any current year shall accumulate in said "Playground and Public Recreation Fund."

Sec. 905. PUBLIC RECREATION TAX LEVY. (RESTATEMENT AND CONTINUATION BY RENUMBERING PRE-EXISTING CHARTER SEC. 202h, ADOPTED FEBRUARY 26, 1929).

The City Council shall annually levy and collect on all the taxable property in the City of Long Beach for the purposes of creating a special fund to be designated as the "Playground and Public Recreation Fund" at least five cents (5¢) on each One Hundred Dollars (\$100.00) of the value on all real and personal property of the City, as assessed by the City for City purposes, and, in addition thereto, shall have power to appropriate such additional funds as it may deem necessary and proper. Said fund shall be exclusively maintained and used to meet the legal demands and expendi-

tures of the Board made for the purposes of public recreation.

Sec. 906. APPEAL TO CITY COUNCIL.

The City Council shall by ordinance establish a procedure for appeal to the City Council of Commission actions relating to City sponsored programs, services and facilities. By two-thirds (2/3) vote, the City Council shall have the power on any such appeal to affirm, modify or overrule the decision of the Commission.

ARTICLE X. PLANNING COMMISSION

Section 1000. CREATION OF PLANNING COMMISSION.

A Planning Commission is hereby created.

Sec. 1001. ORGANIZATION.

The Planning Commission shall be composed of seven (7) residents of the City.

Sec. 1002. POWERS AND DUTIES OF THE PLANNING COMMISSION.

It shall be the responsibility of the Planning Commission to advise the City Council on all matters affecting the development and redevelopment of the City and to perform such other related functions as may be authorized by the City Council. All actions of the Commission shall be advisory only, except for those matters where final authority has been assigned to the Planning Commission. The powers and duties of the Planning Commission shall include the following:

(a) To prepare, approve and recommend to the City Council for adoption or amendment a comprehensive General Plan which shall serve as a basic policy guide for future growth, development, redevelopment, conservation and improvement of the City.

(b) To prepare, approve and recommend to the City Council for adoption or amendment all specific neighborhood plans and redevelopment area plans.

(c) To prepare, approve and recommend to the City Council such ordinances and resolutions, including zoning and subdivision regulations, as are necessary to implement the General Plan, specific neighborhood plans and redevelopment area plans. The City Council shall not adopt or amend any such ordinances or resolutions until it has first requested a report and recommendation from the Commission. The report shall be submitted within a reasonable time and shall evaluate such recommendation with regard to its consistency with the General Plan.

(d) To analyze data and information on the physical, social and economic conditions of the City with reference to both past and future conditions, and to report regularly to the City Council on such matters.

(e) To review the City's long range capital improvement plan to ensure that it is consistent with the City's general plan.

(f) To perform such other duties as may be established by this Charter or the City Council.

ARTICLE XI. CIVIL SERVICE

Section 1100. ORGANIZATION.

The Civil Service Commission, shall be composed of five (5) residents of the City.

Sec. 1101. POWERS AND DUTIES.

The powers and duties of the Civil Service Commission shall be:

- (a) Adopt and amend Civil Service Rules and Regulations, subject to the approval of the City Council;
- (b) Make independent investigations concerning the enforcement of this Article and the rules adopted;
- (c) Provide for the examination and certification for employment in the classified service;
- (d) Create classifications of employees in the classified service, subject to the power of the City Council to establish positions of employment;
- (e) Maintain eligible lists for classified positions, as needed;
- (f) Appoint a staff to assist in carrying out the purposes of this Article;
- (g) Adjudicate appeals, subpoena and require the attendance of witnesses and the production of any documents pertinent to any Commission investigation or appeal, and to administer oaths to such witnesses;
- (h) Enforce and remedy violation of Commission rules;
- (i) Make final decisions in any matter properly brought before it, in the absence of action to the contrary by the City Council.

Sec. 1102. CATEGORIES OF EMPLOYMENT.

The Civil Service of the City is hereby divided into the unclassified and classified service.

- (a) The unclassified service shall include:
 - (1) All officers elected by the people and all employees of such elected officers;
 - (2) Members of all appointive commissions;
 - (3) The City Manager and all employees of the City Manager's Department;
 - (4) The City Clerk and all employees of the City Clerk;
 - (5) Department heads, one assistant department head in each department, bureau heads, division heads, and one clerical position for each;
 - (6) Any classification which, at the discretion of the Commission, is of such a nature as to require unique and special flexibility for efficient administration.
 - (7) The Executive Secretary of the Board of Harbor Commissioners and Harbor Department Sales, Traffic and Promotion personnel, the Chief Wharfinger and all personnel intermittently employed in handling cargo and freight.
 - (8) All personnel serving in non-career positions, as defined by the Civil Service Rules and Regulations.
- (b) The classified service shall comprise all positions not specifically included in this Charter in the unclassified service.

Sec. 1103. DISCIPLINARY APPEALS.

No employee in the classified service shall be suspended, discharged or reduced in classification for disciplinary reasons until the employee has been presented with the reasons for such action specifically stated in writing. The employee shall have the right to appeal such action to the Commission in accordance with the procedures specified in its rules. The reasons for such action and any reply thereto by the employee, shall be filed in writing with the Commission.

Sec. 1104. NON-DISCRIMINATION.

No person in the employ of the City or seeking admission thereto, shall be appointed, reduced, or removed or in any way favored or discriminated against for any reason which is non-job related, except where the law compels or provides for such action.

Sec. 1105. PREFERENCES.

In all Civil Service examinations except promotional examinations, the Commission shall, in addition to all other credits, give to veterans passing the examination, a credit of ten (10) additional points.

Veterans as used herein shall mean all persons released or discharged from active service under honorable conditions, who shall have served for a period of one hundred and eighty-one (181) days or more during time of war in the Armed Forces of the United States or in the Coast Guard. Time of war shall include the periods of December 7, 1941 through December 31, 1946; June 27, 1950 through July 27, 1953; August 5, 1964 through July 1, 1973 and any other periods of expedition of the Armed Forces of the United States specified by the Commission subject to confirmation by the City Council.

Such credit shall likewise be granted to the unremarried spouses of deceased veterans and to the spouses of disabled veterans who themselves are not qualified for employment, but whose spouses are qualified. For purposes of this section, disabled veteran is defined as a veteran possessing at least a thirty percent (30%) service connected disability certified by the Veterans Administration.

Eligibility to receive the benefits of this section is limited to a term of ten (10) years from the date of discharge or release from active service or removal from disability status by the Veterans Administration; except that a disabled veteran or the spouse of such disabled veteran, or the unremarried spouse of a deceased veteran shall not be subject to said eligibility limitation.

Documentary proof of eligibility for Veteran's Preference Credits and exemption from tie eligibility limitation must be submitted prior to approval of the Eligible List by the Commission. In the case of a tie grade between a veteran and non-veteran, the veteran shall be ranked highest.

Sec. 1106. SUMMARY DISMISSAL.

Any appointive officer or employee of the City, except assistants, deputies, officers, clerks, employees and attaches holding office at the pleasure of an elective officer, may be summarily dismissed for the good of the service by the City Manager with the consent of two-thirds (2/3) of the City Council.

ARTICLE XII. HARBOR DEPARTMENT**Section 1200. ESTABLISHMENT OF HARBOR DEPARTMENT.**

To promote and develop the Port of Long Beach, there is hereby created a Harbor Department.

Sec. 1201. HARBOR DISTRICT.

The boundaries of the Harbor District, as referred to in this Article, are those existing as of the first day of February, 1979, or as the boundaries may have been thereafter changed in accordance with law.

Sec. 1202. BOARD OF HARBOR COMMISSIONERS.

The exclusive control and management of the Harbor Department is hereby vested in the Board of Harbor Commissioners, which shall be composed of five (5) members.

Sec. 1203. POWERS AND DUTIES OF THE COMMISSION.

The Commission shall have the exclusive power and duty for and on behalf of the City:

(a) To sue and defend in the name of the City in all actions and proceedings pertaining to any matters within the jurisdiction of the Commission.

(b) To provide for the needs of commerce, navigation, recreation and fishery in the Harbor District; to plan, promote, develop, construct, reconstruct, alter, repair, maintain, equip, and operate all properties including, but not limited to, the piers, wharves, seawalls, docks, basins, channels, slips, landings, warehouses, floating and other plants or works, and all other publicly owned facilities or appliances incident to the operation of the Harbor District, both inside and outside the Harbor District; to dredge and reclaim land, to construct, equip and operate terminal trackage with connections between docks, piers and other Harbor District properties and connect the same with mainline tracks; to provide services including, but not limited to, tugs, dredges, fireboats, barges, cold storage plants; to establish, equip and operate all other facilities or aids incident to the development, protection and operation of the Harbor District, and to modify plans from time to time as the requirements of commerce, navigation, recreation or fishery may demand, and as the Commission may deem proper and desirable in its judgment.

(c) To direct, control, and supervise the Harbor District, including all the waterfront properties, and lands adjacent thereto, or under water, structures thereon, and approaches thereto, storage facilities and other utilities, and all rights and interests belonging thereto, which are now or may hereafter be owned or possessed by the City, both inside and outside of the Harbor District, except such lands or parts thereof, for so long as the same may be used for or in connection with the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas and other hydrocarbon substances by the City, provided that with respect to such portions of said lands used therefor as are tide and submerged lands, whether filled or unfilled, or that are held subject to the tideland trust, that the Commission has determined by resolution, that said lands or parts thereof, are not required, and with reasonable certainty will not be required, for a period not to exceed thirty-five (35) years, for the promotion or development of commerce, navigation, recreation, or fishery.

(d) To control and have jurisdiction of that part of the City hereinafter defined as the "Harbor District", as said district was bounded and described on the first day of February, 1979, except as to those lands, or parts thereof, within said district as may be used for or in connection with the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas and other hydrocarbon substances by the City as provided herein; and to make and enforce in the

Harbor District general rules and regulations, to the extent that may be necessary or requisite for port purposes and harbor development, and in carrying out the powers elsewhere vested in the Commission; provided, however, that with the approval of the City Council, the Commission may, with the prior approval of the electors, relinquish to the City Council control of portions of the Harbor District. Upon request of the Commission, the City Council may, by ordinance, also with the prior approval of the electors, change the boundaries of the Harbor District.

(e) To require owners of water terminal properties and facilities within the Harbor District to keep said properties and facilities in proper condition and repair and to maintain them with especial reference to the safety of persons and property and the reduction of fire hazard or nuisances. The Commission shall have the right to inspect such terminal facilities at reasonable times.

(f) To regulate and control all public service and public utilities operated in connection with, or for the promotion and accommodation of commerce, navigation, recreation or fishery in the Harbor District; to fix the proper license fees to be paid to the City by any person, firm or corporation operating any such public service or utility; and to fix and regulate the rates or tolls to be charged or collected for services furnished by any such public service or utility. The Commission shall have the right, at all reasonable times, to have access to, and, in person, or by its duly authorized representatives, to examine the books, papers, maps and records showing the affairs, transactions, property and financial condition of such persons, firms or corporations, and to require reports respecting said matters from such persons, firms or corporations at such times and in such form as the Commission may prescribe. The amounts of the license fees to be paid to the City by any such person, firm or corporation, operating any such public service or utility and the rates or tolls to be charged and collected for service furnished or supplied by such public service or utility shall be fixed by the Commission by ordinance.

(g) To regulate the speed, berthing, anchoring, towing, loading, unloading and mooring of vessels within the Harbor District.

(h) To provide for handling, storage and reconditioning of all commodities; to sell or otherwise dispose of personal property within its possession or ownership.

(i) To issue receipts, negotiable or otherwise, for property or merchandise, in its charge or possession, and to act as agent in sales and other contracts.

(j) To fix all rates, dockage, rentals, tolls, pilotage, wharfage, and charges for the use and occupation of the public facilities or appliances of the port, and for services rendered by the Harbor Department, and to provide for the collection thereof.

(k) To use, for loading and unloading cargo, with the right to collect tolls, dockage and other terminal charges thereon, such portions of the streets of the City ending or fronting upon the water areas of the harbor of said City, as may be used for said purposes.

(l) To lend its aid to secure the improvements of navigable tidal waters, within or adjacent to the Harbor District where, in its opinion, such im-

provements are economically justifiable, and in the general carrying out of its powers to cooperate with the City, with neighboring cities, other ports, the State of California, or the United States Government; and to appear before state, federal and other public legislative and administrative authorities.

(m) To manage the business of the port and promote the maritime and commercial interests by proper advertisement of its advantages, and by the solicitation of business, within or without the Harbor District, within the State of California or other states or in foreign countries, through such employees and agencies as it may deem expedient.

(n) To acquire in the name of the City by purchase, condemnation, gift, lease, or otherwise take over and hold all lands, property, property rights, leases, or easements, and personal property of every kind, necessary or convenient for the development and operation of the Harbor District, or for the carrying out of the powers herein granted to the Commission.

Whenever the Commission determines that any lands owned by the City within its jurisdiction have become unnecessary for port purposes or harbor development, it may by ordinance, transfer such land to the control of the City Council, free from all restrictions, other than trust restrictions, if any.

(o) To enter into contracts, agreements, leases, or stipulations, germane to the scope of its powers and duties.

(p) To let all work by contract or order it done by day labor, as the Commission may determine.

(q) To create bureaus and divisions of the Harbor Department. To employ and appoint an Executive Director who shall be Chief Executive of the Harbor Department and who shall exercise the management of all affairs and activities placed under the jurisdiction of the Commission, and an Assistant Executive Director, each of whom shall hold such position during the pleasure of the Commission. To appoint and employ such other officers and employees as may be necessary in the efficient and economical carrying out of its functions. To prescribe and fix the duties, authority and compensation of all appointees hereunder and to require such officers and employees to give a bond in such an amount as the Commission may require for the faithful performance of their duties. All officers and positions of employment in the permanent service of the Commission shall be created by resolution.

(r) To confer upon and delegate to the Executive Director such powers and duties as the Commission shall deem appropriate.

(s) To expend all funds necessary to carry out the powers and duties herein expressed.

(t) To adopt and enforce such ordinances, orders, regulations and practices as are necessary for the proper administration and discharge of its duties and powers, or for the management and government of the Harbor District and its facilities.

(u) To prescribe fines, forfeitures and penalties for the violation of any provision of this Article, or of any ordinance of the Harbor Commission, but no penalty shall exceed Five Hundred Dollars (\$500.00) fine, or six (6) months imprisonment, or both.

(v) To do and perform any and all other acts and things which may be necessary and proper to carry out the general powers of the City, or any of the provisions of this Article, and to exercise all powers not in conflict with the Constitution of the State, or with this Charter, germane to the scope of its powers, purposes and duties.

Sec. 1204. ADDITIONAL POWERS.

The City Council, subject to the approval of the Commission, may by ordinance confer upon and delegate to the Commission from time to time, such additional powers and duties which may be vested in it, and which it may deem necessary or convenient to carry out the general purposes of such Commission.

Sec. 1205. CONTROL OF HARBOR PROPERTY.

No franchise shall be granted, no property shall be acquired or sold, no street shall be opened, altered, closed or abandoned, and no sewer, street, or other public improvement shall be located or constructed in the Harbor District by the City without the approval of the Commission.

Sec. 1206. ORDINANCES AND RESOLUTIONS.

All actions taken by the Commission shall be by motion or by resolution except as set forth in this Article.

The Commission shall keep a minute book wherein shall be recorded the proceedings taken at its meetings and it shall keep a record and index of all its resolutions and ordinances, which shall be open to public inspection when not in use.

No ordinance or resolution shall be passed or become effective without receiving the affirmative votes of at least three (3) members of the Commission.

No ordinance shall be placed upon its final passage upon the same day it has been introduced except emergency ordinances. All ordinances and resolutions shall be posted in three (3) conspicuous places in the City unless publication is ordered by the Commission or otherwise required by law. No ordinance shall become effective until thirty (30) days after the date of its final passage, except emergency ordinances.

The Commission may, by vote of three (3) of its members, pass emergency measures to take effect at the time indicated therein. Emergency measures shall contain a section in which the emergency is particularly set forth, and defined, and a separate roll call on the question of the emergency shall be taken.

All ordinances shall be signed by the president, or vice president of the Commission and attested by the secretary.

A certified copy of each ordinance adopted by the Commission shall be forthwith filed with the City Clerk, and the City Clerk shall keep a record and index thereof which shall at all times be open to public inspection.

All proceedings for the acquisition of real property by purchase, condemnation, or otherwise, or the granting of any lease longer than five (5) years, the fixing, regulating and altering schedules of rates, dockage, wharfage, tolls and charges for all public-owned docks, piers, wharves, slips and other facilities, and for services rendered by the Harbor Department and the adoption of all general rules and regulations of the Commission, excepting administrative regulations of a temporary nature, shall be

taken by ordinance, provided that the Commission may by resolution, fix, regulate and alter schedules of rates, dockage, wharfage, tolls and charges for all public-owned docks, piers, wharves, slips and other facilities, and for services rendered by the Harbor Department for a period not to exceed ninety (90) days.

Sec. 1207. LEASING.

(a) All tidelands and submerged lands within the Harbor District, whether filled or unfilled, now owned or hereafter acquired by the City are hereby declared to be required for use for purposes in connection with, or for the promotion and accommodation of commerce, navigation, recreation or fishery, and shall, except as herein provided, continue to be withheld for such purposes. It shall be unlawful to grant, sell, convey, alienate, transfer or otherwise dispose of, except as herein provided, any part of or any interest in the waterfront, tidelands, submerged lands, or appurtenances thereto belonging, owned, controlled, possessed or held by the City in the Harbor District; provided that grants of such lands may be made to the State of California, or to the United States of America, for public purposes, when authorized by a majority vote of the qualified voters of the City, voting upon the question of authorizing any such grant at an election.

(b) Notwithstanding any other provision of this Charter to the contrary, the Commission shall not be required to operate directly all of the properties, facilities and utilities under its control or jurisdiction, and shall have the power to authorize the operation of any of such properties, facilities and utilities by a private person, firm, association or corporation, whether by lease, franchise, license, assignment, permit or otherwise, upon such terms and conditions as the Commission shall prescribe, which terms and conditions shall include control over the rates, charges and practices of said private party to the extent permitted by law.

(c) The Commission shall have power to grant to any person, firm or corporation, franchises, leases, assignments and permits of any properties and facilities belonging to or possessed by the City under the jurisdiction of the Commission for public uses and purposes consistent with the trusts upon which said lands are held for periods not exceeding sixty-six (66) years, as hereinafter provided. Whenever it shall be determined by the Commission, by ordinance, that such properties therein described may not be required at such time for use for purposes in connection with, or for the promotion and accommodation of commerce, navigation, recreation or fishery the Commission shall have power to grant leases of such properties for periods not exceeding fifty (50) years, pursuant to competitive bidding, for any and all purposes, which shall not interfere with commerce, navigation, recreation or fishery, and are not inconsistent with the trusts upon which said lands are held by the City.

(d) All such franchises, permits and leases shall be granted subject to such terms and conditions and such rental and compensation as prescribed therein, and to the limitations, conditions, restrictions and reservations contained in this Article. Every such grant for a period of five (5) years or less shall be made by resolution, and every such grant for a period of more than five (5) years shall be made by ordinance.

Every ordinance making any such grant for a period of more than five (5) years shall be published and/or posted once in the same manner as ordinances of the City. Every such ordinance, when published and/or posted, shall, before the same becomes effective, be subject to the referendum provisions of this charter relating to ordinances.

Every such grant shall provide for a readjustment of the rental or the compensation not less than every five (5) years during the term thereby created, upon such procedure as shall be specified in such grant.

(e) Every such grant shall be made only upon the condition, whether expressed therein or not, that the construction of the works, structures or improvements provided for therein shall, if the same be not already constructed or made, be commenced promptly after such grant becomes effective, and be prosecuted diligently to completion upon such further terms and conditions as may be prescribed therein.

(f) No total or partial assignment, transfer, sublease, gift or grant of control shall be valid for any purpose unless first approved by the Commission.

(g) Every such grant shall be subject to such rights-of-way over the lands embraced therein for such sewers, pipelines, conduits, and for such telephone, telegraph, light, heat or power lines as may from time to time be determined by the Commission and the same shall be subject to such rights-of-way for such streets and other highways and for such railroads and other means of transportation as shall have been duly established or shall be reserved in such grant. No such grant shall ever be made that shall provide for any use of the property or for the construction or placing of any structure, building or other improvement thereon that shall interfere with any plan approved or adopted by the Commission for harbor improvements or for the development of facilities for the promotion and accommodation of commerce, navigation, recreation or fishery or for providing railroad or other terminal facilities.

(h) Every such grant shall prescribe that upon the expiration thereof, all wharves, piers, docks, slips, bulkheads, sea walls and channels, constructed or maintained thereunder, shall be and become the property of the City without compensation therefor to the grantee or holder thereof; and as to the other permanent structures or improvements constructed or maintained thereunder, shall prescribe whether the same shall become the property of the City without compensation or upon compensation to be paid to such grantee or holder, or shall be removed by such grantee or holder at his own expense.

(i) The Commission shall have power to declare a forfeiture of any such grant upon the neglect, failure or refusal of the grantee thereof to comply with any of the terms or conditions thereof. Upon any such forfeiture, any and all buildings, structures and improvements of whatsoever character, erected, installed, or made under, through or because of, or pursuant to the terms thereof, shall immediately ipso facto become the property of the City, and every such grant shall so provide.

(j) Grants of franchises, permits, leases, revocable permits and assignments provided for herein shall be made only upon written application therefor submitted to the Commission, which application shall set forth

such information as the Commission may require and, when prescribed by the Commission, such application shall be accompanied by a fee to cover the expenses of making any such grant.

(k) The Commission shall have power to enter into agreements with other agencies owning or operating facilities outside the Harbor District for the purpose of purchase, lease or other use or service of their facilities in order to facilitate the unified management and control of transportation facilities providing essential services to the Harbor District.

Sec. 1208. LEASING AND OPERATION OF RAILROAD FACILITIES.

The Commission shall have power to contract for or permit the operation of trains and cars upon the municipal terminal railroad of the City upon such terms and conditions as it may prescribe. In order to provide for the unified or joint operation and control of railroad facilities in the Harbor District, both municipal and private, the Commission shall have power:

(a) To lease all necessary privately owned railroads, tracks, facilities and adjuncts and to operate, or provide for operation of, the same in conjunction with the municipal terminal railroad; or

(b) To lease the municipal terminal railroad to an association, corporation or company for the purpose of operating the same together with all other privately owned railroads, tracks, facilities, and adjuncts in the Harbor District necessary to provide unified or joint operation and control of all such facilities; provided, that any such lease shall be by ordinance and subject to the referendum provisions of this Charter.

Sec. 1209. FINANCE.

(a) All money received or collected from or arising out of the use or operation of any harbor or port improvement, work, appliance, facility or utility, or water craft, owned, controlled, or operated by the City in or upon or pertaining to the lands and waters under control and management of the Harbor Department; all tolls, charges and rentals collected by the Harbor Department, and all compensations or fees required to be paid for services, franchises or licenses, or otherwise by law or ordinance or order, to the City for the operation of any public service utility upon lands and waters under the control and management of the Harbor Department, shall be deposited in the City treasury to the credit of the Harbor Revenue Fund, which fund has been heretofore created and established and is hereby continued, and shall be kept separate and apart from other monies of the City. Said fund shall be a continuing fund not subject to transfer at the close of the fiscal year.

(b) The money deposited in the Harbor Revenue Fund may, from time to time, be invested in accordance with the provisions of applicable legislation of the state of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State, all interest, earnings, income or profits from the investment of said money shall likewise be deposited to the credit of said fund.

(c) Monies credited to the Harbor Revenue Fund may be appropriated and used only for the following purposes:

(1) For the necessary expenses of promoting, conducting, managing and operating the Harbor Department, including, but not limited to, the operation, repair and maintenance of all harbor or port improvements, works, utilities, appliances, facilities and water craft, owned, controlled or operated by the City, for the promotion and accommodation of commerce, navigation, recreation or fishery, or used in connection therewith;

(2) For the acquisition, construction, completion and maintenance, to the extent and in the manner permitted by all applicable law, of harbor and port improvements, buildings, work, utilities, appliances, facilities, and water craft, for the promotion and accommodation of commerce, navigation, recreation or fishery, or used in connection therewith, and for all other improvements and betterments authorized by law to lands and property under the control, supervision and management of the department, including the purchase or condemnation of necessary lands and other property and property rights, except that condemnation of property outside of the Harbor District shall require the consent of the City Council.

(3) For the payment of the principal or interest, or both, of harbor improvement bonds, either general obligation bonds or revenue bonds, issued for harbor improvements.

(4) For the transfer to the Tideland Operating Fund at the beginning of a fiscal year from revenues in the Harbor Revenue Fund of such sums as shall have been determined by the City Council, by a vote of two-thirds ($\frac{2}{3}$) of all its members, expressed by resolution, to be required to meet the lawful obligations of the Tideland Operating Fund; provided, however, that such sums designated shall not exceed ten percent (10%) of the net income of the Harbor Department as shown on the most recent available independently audited financial statements; and further provided that such transfer of funds shall be subject to the prior approval of a majority of all members of the Board of Harbor Commissioners, expressed by resolution, finding and determining that the funds proposed to be transferred will not be needed for Harbor Department operations, including, without limitation, operating expenses and capital projects, and that such transfer will not result in insufficient funds to pay the principal and interest as they fall due, or otherwise impair the ability to meet covenants, of general obligation or revenue bonds issued for harbor purposes. All such transfers shall be made by journal entry on the books of the City in the manner determined by the City Manager.

(d) All reimbursements, repayments and approved reimbursement transfers from other established funds may be used for the same purposes as specified above. All such reimbursement transfers shall be made by journal entry on the books of the City in the manner determined by the City Manager.

Sec. 1210. ANNUAL BUDGET.

The Commission shall, not later than sixty (60) days prior to the beginning of each fiscal year, adopt and transmit a departmental budget for the forthcoming fiscal year covering the anticipated revenue and the ex-

penditures of the Harbor Department, wherein shall be stated the amount necessary, if any, to be raised by tax levy. Such departmental budget shall conform to the general City budget. Two certified copies of said budget shall forthwith after adoption by the Commission, be filed with the City Clerk for presentation to the City Council and one certified copy shall forthwith be filed with the City Auditor. Such budget shall be subject to the approval of the City Council as is provided in this section. The City Council shall, not later than the first day of July of each calendar year, approve the budget adopted by the Commission or shall amend said budget and approve the same as amended not later than the first day of July each calendar year.

The City Council may appropriate such amounts as it may deem necessary and proper to be expended pursuant to said annual departmental budget, and such amounts thus appropriated shall be included in said annual departmental budget as anticipated revenue of the Harbor Department. In the event the City Council shall not approve said budget or amend the same and adopt said budget as amended on or before said first day of July, the same shall become effective as the official budget of the Harbor Department for the forthcoming fiscal year. In the event the City Council shall amend said budget and approve the same as amended as above provided, a certified copy of said approved budget as amended shall be filed with the Commission and the City Auditor.

No expenditure shall be made or financial obligation incurred by the Commission, its officers or employees, except as authorized by said annual departmental budget. Said budget, when effective, shall constitute an appropriation covering the anticipated revenues and expenditures of the Harbor Department as therein set forth.

Sec. 1211. BOND INDEBTEDNESS.

(a) The proceeds from the sale of bonds now authorized or which shall hereafter be authorized for port or harbor purposes, shall be under the control of and expended by the Commission, and shall be expended for the objects and purposes for which the indebtedness was incurred. Whenever it is desired to incur additional general obligation bonded indebtedness for any object or purpose consistent with its general powers, the Commission shall prepare tentative plans and estimates and submit its recommendation in writing to the City Council.

(b) The Commission shall be authorized, with the approval of a majority of all members of the City Council, to provide without an election for the issuance of revenue bonds secured by the revenues of the Harbor Department, including but not limited to revenues from the operation of the port and harbor facilities of the City as the facilities now exist or may later be extended or improved, for the purpose of acquiring, providing for, erecting, constructing, reconstructing, replacing, extending, or improving such improvements, utilities, structures, water craft, appliances, facilities and services as the Commission may deem necessary or convenient for the promotion or accommodation of commerce, navigation, recreation or fishery or for any use in connection therewith, or upon the lands and waters, or interest therein, in the possession and under the management, supervision and control of the Commission, or for the payment of the cost of

acquiring or taking such real property or any interest therein, that the Commission may deem necessary or convenient for such purpose. The procedure for issuance of revenue bonds by the Harbor Department shall be established by procedural ordinance of the City Council.

Notwithstanding all or any part of this section, nothing herein shall be construed as a limitation upon the power of the City or of any department thereof to issue revenue bonds without an election, under state law or procedural ordinance.

Sec. 1212. MONIES ON HAND.

All money deposited in the City Treasury to the credit of the Harbor Bond Redemption and Interest Fund, which fund has been heretofore created and established and is hereby continued, shall be used solely and exclusively to pay the principal and interest on all general obligation bonds issued by the City of Long Beach for harbor purposes. Said fund shall be a continuing fund not subject to transfer at the close of the fiscal year. When there shall have been deposited in such fund sufficient money to pay the principal and interest on any and all outstanding bonds, thereafter, and until there may be other such bonds outstanding, no further deposits shall be made into said fund. All money which would otherwise be deposited therein, including interest increments, shall be paid into the Harbor Revenue Fund. The money deposited in the Harbor Bond Redemption and Interest Fund may be invested in accordance with the provisions of applicable legislation of the State of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State. A separate fund or funds may be established for the purpose of paying, or securing the payment of, revenue bonds for harbor purposes and the pledge of revenue to such funds may have priority over any allocation of revenues to pay the principal and interest of general obligation bonds.

Sec. 1213. DUTIES OF CITY TREASURER.

All monies under the control of the Commission shall be immediately paid over to the City Treasurer, who shall have the care and custody of said funds, and shall keep separate accounts thereof, and pay out the same, as provided in this Charter.

Sec. 1214. CONTRACTS.

All contracts, except where the expenditure involved does not exceed the amount established by ordinance of the City Council for city departments shall be made and entered into upon competitive bidding in the manner and form as provided in this Charter. All powers and duties therein conferred or imposed upon the City Council in relation to all matters connected with the Harbor District, are hereby conferred and imposed upon the Commission. All powers and duties therein conferred or imposed upon the City Manager, in relation to all matters connected with the Harbor District are hereby conferred and imposed upon the Executive Director of the Harbor Department. Plans and specifications at the time of publication of notice inviting such bidding must be on file in the office of the Commission, subject to public inspection. Except as otherwise provided, all supplies and/or materials not required to be obtained upon competitive bidding, or for actual emergency work, shall be pro-

cured for the Commission by the City Purchasing Agent, in accordance with procedures prescribed therefor by the City Manager.

Sec. 1215. BUILDING PERMITS.

No person or persons shall construct, extend, alter, improve, erect, remodel or repair any pier, slip, basin, wharf, dock or other harbor structure, or any building or structure within the Harbor District without first applying for and securing from the Commission a permit so to do, in accordance with the rules and regulations adopted by it. In approving or denying the right to said permit, the Commission shall consider the application therefor, the character, nature, size and location of the proposed improvement and exercise a reasonable and sound discretion during said consideration.

Such permit shall be in addition to any permit which may be required by law from the Superintendent of Building and Safety of the City.

Sec. 1216. PUBLIC STREETS.

Whenever the Commission shall determine that it is necessary to open, close, improve, alter or vacate a dedicated public street, or part of a street, or easement within the Harbor District, a certified copy of the resolution so determining such necessity shall be filed by the Commission in the office of the City Clerk, whereupon the City Engineer and the City Council may initiate and carry to completion the proceedings necessary to effect said proposal.

Sec. 1217. CONFLICT WITH OTHER PROVISIONS.

The provisions of this Article shall supersede and control all other provisions of the Charter in conflict therewith. To all other extents, the powers, duties and functions heretofore vested in the City Council, or any of the officials, boards, or departments of the City shall be unimpaired.

ARTICLE XIII. MANAGEMENT OF OIL PROPERTIES

Section 1300. DEPARTMENT OF OIL PROPERTIES, ADMINISTRATION—OIL CONTRACTS.

(a) There is hereby created a Department of Oil Properties. This department shall consist of a Director of Oil Properties and such employees as the City Council may provide for in the budget. The Director of Oil Properties shall be appointed by the City Manager and confirmed by the City Council. The Director of Oil Properties shall appoint, with the approval of the City Manager, all members of the department.

(b) Subject to the supervision and control of the City Manager in all matters, the Director of Oil Properties shall have charge of and be responsible for the administration of the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas and other hydrocarbon substances by the City to the extent reserved to the City in any and all leases, contracts or other agreements between the City and other persons, firms, corporations or associations pursuant to the provisions of this Charter. The Director of Oil Properties shall also have charge of and be responsible for the administration of all subsidence control and pressure maintenance programs, and shall perform such other duties as may be required by this Charter, by the City Manager or by ordinance adopted by the City Council.

Sec. 1301. OIL PRODUCTION.

The power of the City to drill for, develop, produce, extract, process, take or remove, store and dispose of oil, gas and other hydrocarbon substances, of whatsoever kind, from, under, across or through any and all lands including all tide and submerged lands, whether filled or unfilled, and whether such lands belong to the City, or whether such lands be those in or from which the City now or hereafter may have said rights, shall be exercised by such means, or methods, or in such manner as the City Council may authorize.

Before such power may be exercised as to tide and submerged lands, whether filled or unfilled, or as to such lands as are held subject to the tideland trust, the City Council, as to such lands outside the Harbor District, and the Board of Harbor Commissioners, as to such lands within the Harbor District, shall first determine, by resolution, that such lands, or parts thereof, intended to be so used are not required, and with reasonable certainty will not be required, for a period of thirty-five (35) years or for such term or period of the lease, contract or other agreement between the City and other persons, firms, corporations or associations pursuant to which such powers may be exercised and relating to such lands or parts thereof, for the promotion or development of commerce, navigation, recreation or fishery.

With respect to tide and submerged lands, whether filled or unfilled, if the City Council shall elect to drill for, develop, produce, extract, process, take or remove, store and dispose of oil, gas and other hydrocarbon substances directly by its own employees and under its own supervision and direction, or by agreements with other persons, firms, corporations or associations, whereby the City shall pay a cash consideration for the performance of such agreements, said City Council may commence and prosecute such operations by using monies derived from, or allocated or assigned to, or attributable to production, from or allocated or assigned to all tide and submerged lands granted to the City by the State of California and to any lands within the City limits belonging to the City and which were purchased or acquired, in whole or in part, by use of tideland trust monies.

Sec. 1302. COMPETITIVE BIDDING FOR OIL PRODUCTION RIGHTS.

(a) The City Council may authorize and direct the execution of leases, contracts or other agreements between the City and other persons, firms, corporations or associations to drill for, develop, produce, extract, process, take or remove, store and dispose of oil, gas and other hydrocarbon substances from, under across or through any and all lands including tide and submerged lands, whether filled or unfilled, belonging to the City, or such lands in or from which the City may now or hereafter have said rights for the term or period in each instance not to exceed such as provided by law.

Any such lease, contract or other agreement referred to above shall be made and entered into with the highest responsible bidder upon competitive bidding in the manner and form as shall be approved by said City Council, after publication of notice calling for bids in a newspaper of general circulation within the City.

All specifications and forms for the purpose of inviting bids in connec-

tion with such leases, contracts or other agreements relating to tide and submerged lands, whether filled or unfilled, shall be approved by the State Lands Commission prior to publication of notice to bidders. All such leases, contracts or other agreements shall be of no effect unless and until approved by said State Lands Commission. All such leases, contracts or other agreements shall include all provisions necessary to assure compliance with the requirements of applicable laws of the State of California, including Chapter 29, Statutes of 1956, First Extraordinary Session, and Chapter 138, Statutes of 1964, First Extraordinary Session, or such as may be lawfully required by subsequently enacted legislation, as such legislation is, has been or may hereafter be construed by the courts having jurisdiction thereof. No such leases, contracts or other agreements shall be modified or amended in any respect without the advance consent of said State Lands Commission.

The City Council may authorize the execution of any such lease, contract or other agreement between the city and other persons, firms, corporations or associations, including such lands, other than tide and submerged lands granted to the City by the State of California, in a community lease embracing adjoining lands not belonging to the City without such competitive bidding.

Notwithstanding the competitive bidding requirement hereinabove provided, the City Council may, by negotiation and without resort to competitive bidding, extend the term of any lease, contract or other agreement providing for the drilling for, developing, producing, extracting, processing, taking or removing, storing, and disposing of oil, gas or other hydrocarbon substances, and in connection therewith, amend and modify the provisions, conditions and limitations thereof, including any provision for the division of the proceeds from oil and gas operations conducted thereunder, concerning the lands above referred to, except as to those leases, contracts or other agreements relating to the exploration and development of the tide and submerged lands granted to the City by the State of California; provided, however, that any such extension of term, including the existing unexpired term of any such lease, contract or other agreement, shall not exceed twenty-five (25) years.

The power of extension hereby conferred is in addition to all other powers possessed by the City Council with respect to any such lease, contract or other agreement heretofore entered into and this subdivision is not intended, nor should it be construed, as divesting or in any manner diminishing any power which the City Council now has, with respect to matters not involving an extension of term, to amend or modify any such lease, contract or other agreement for the remainder of the term hereof.

(b) Notwithstanding the determination requirement contained in the second unnumbered paragraph of Section 1301 or the limitation as to term contained in subdivision (a) of this Section, the City Council may enter into cooperative or unit agreements with respect to the lands or any interest in lands referred to in subdivision (a) of this section, all as more particularly hereinafter provided.

Whenever the City Council determines by resolution, that it is in the interest of safeguarding life, health, welfare or property, or that the subsid-

ence or sinking of any of said lands or abutting lands may possibly be arrested or ameliorated thereby, or that it is in the interest of increasing the ultimate recovery of oil or gas from such lands or of the protection of the oil or gas in said lands from unreasonable waste, provision may be made in any lease, contract or other agreement so as to provide, and any existing lease, contract or other agreement may be amended so as to provide, that any such lands may, at the direction of the City Council, be included in a cooperative or unit agreement with other lands belong to the City, or with other lands not belonging to the City, for the purpose of bringing about the cooperative development or operation of all or a part or parts of the oil and gas field in which such lands are located, or for the purpose of bringing about the development or operation of all or a part or parts of such field as a unit, or for the purpose of fixing the time, location and manner of drilling and operating of wells for the production of oil or gas, or providing for the return or injection of gas, water or other substances into the subsurface of the earth.

In the event the City Council determines that any such lands, including lands not subject to any lease, contract or other agreement, should be included in such a cooperative or unit agreement, the City Council shall have the power to negotiate and authorize the execution of all agreements necessary to effectuate, implement or modify such arrangement, including the power to bind and commit any such lands to a cooperative or unit agreement for the full term thereof and irrespective of the termination date of any lease, contract or other agreement then in effect as to such lands. The term of any such cooperative or unit agreement may be for such period or periods, including indefinite periods, as the City Council shall determine, and the competitive bidding provisions in this Charter prescribed shall not apply to the making, implementation or modification of any such cooperative or unit agreement.

The provisions of any existing lease, contract or other agreement between the City Council, the Board of Harbor Commissioners or the Board of Water Commissioners and any other person, firm, corporation or association relating to the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas or other hydrocarbon substances derived from the lands which are subject to a cooperative or unit agreement may be amended, by negotiation and without resort to competitive bidding, to the extent the City Council shall determine is necessary or desirable in order to institute or effectuate such a cooperative or unit agreement; provided, however, no such amendment and no such cooperative or unit agreement nor any subsequent modification or amendment thereof, shall ever be construed as having the effect, either directly or indirectly, of extending the term of any lease, contract or other agreement then in effect as to such lands beyond the termination date therein expressly provided, but the foregoing shall not prevent the City Council from extending the term of any such lease, contract or other agreement as permitted by this Charter or applicable law.

Before any tide or submerged lands, whether filled or unfilled, may be included in or committed to any cooperative or unit agreement, or before any modification or amendment of any cooperative or unit agreement

which includes such lands may be made:

1. The city council, as to such lands outside the Harbor District, and the Board of Harbor Commissioners as to such lands within the Harbor District, shall first determine, by resolution, that the surface of such lands or that portion of the surface intended to be utilized, is not required, and with reasonable certainty will not be required, during the term of the proposed cooperative or unit agreement for the promotion or development of commerce, navigation, recreation or fishery; and
2. The State Lands Commission shall approve of any such agreement or any amendments thereto or modifications thereof.

Notwithstanding any other subdivision or section in this Charter, the power of the City Council to enter into unit or cooperative agreements as hereinabove granted shall include the power to do such acts or things and to incur such commitments and obligations as are customary in unit or cooperative agreements. Without limiting the generality of the foregoing, the City Council shall have the right and power, anything to the contrary in this Charter notwithstanding, to give customary indemnities, lien on production, and other rights to the operator and other parties to the cooperative or unit agreement, and to share in the expenses of any such cooperative or unit agreement.

No agreement providing for a cooperative or unit development plan shall be authorized, the effect of which would permit the construction or installation of derricks, machinery or apparatus on the surface of any land for the purpose of drilling for, pumping or producing oil, gas or other hydrocarbon substances in any area of the city in which such operations shall then be prohibited by regulatory or initiative ordinance.

Sec. 1303. AUTHORITY OVER OIL PRODUCTION TRANSFERRED TO CITY COUNCIL.

With respect to any and all leases, contracts or other agreements, including cooperative or unit agreements, relating to the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas or other hydrocarbon substances, heretofore entered into pursuant to the provisions of this Charter, wherein the Board of Harbor Commissioners or the Board of Water Commissioners shall be a party thereto, the City Council shall be deemed to be, and shall constitute, the Board of Harbor Commissioners and the Board of Water Commissioners and shall act in the place and stead thereof, and the City Manager shall be deemed to be, and shall constitute the General Manager of the Harbor Department or the General Manager of the Water Department, and all powers and duties therein conferred or imposed upon said General Managers are hereby conferred and imposed upon the City Manager, who may delegate the exercise of such powers and duties to a designated representative.

With respect to the aforementioned leases, contracts and other agreements wherein the Board of Harbor Commissioners or the Board of Water Commissioners are parties thereto, the duties and functions pertaining thereto as shall devolve upon the City Council by reason of the provisions of this section may be delegated by the City Council to the City Manager or his designated representative from time to time, by ordinance, resolu-

tion or minute order. With respect to the duties and functions of the City Council relating to any other leases, contracts or other agreements, including cooperative or unit agreements, pertaining to the drilling for, developing, producing, extracting, processing, taking or removing, storing or disposing of oil, gas or other hydrocarbon substances entered into by the City pursuant to the provisions of this Charter, such duties and functions may also be delegated by the City Council to the City Manager or his designated representative from time to time, by ordinance, resolution or minute order. A report of any action taken by the City Manager or his designated representative in accordance with such delegation by the City Council shall be submitted by the City Manager to the City Council at its next regular meeting thereafter, and such action taken shall be deemed approved, confirmed and ratified, in the absence of action contrary thereto, by said City Council at said meeting.

ARTICLE XIV. WATER DEPARTMENT

Sec. 1400. ESTABLISHMENT OF WATER DEPARTMENT.

There is hereby created a Water Department which shall be under the exclusive jurisdiction and control of five commissioners who shall be known as the Board of Water Commissioners.

Sec. 1401. RULES OF PROCEDURE.

The officers, their terms and duties, dates and times of meetings, form of minutes, and other procedural matters shall be established by the Commission to govern its activities under this Charter.

Sec. 1402. WATER RIGHTS.

The City shall continue in the ownership and enjoyment of all water and water rights vested in it, and ownership of the right to develop, economize, control, use, conserve, and utilize all water flowing or being beneath the surface of any and all lands now owned or that may be hereafter acquired by it. No water rights now or hereafter owned or controlled by the city, shall ever be sold, leased or disposed of, in whole or in part, without the assent of two-thirds ($\frac{2}{3}$) of the qualified voters of the city, voting on the proposition at a general or special election at which such proposition shall be lawfully submitted.

Sec. 1403. POWERS AND DUTIES.

The Commission shall have the complete and exclusive power and duty:

(1) To supervise, control, regulate and manage the Water Department, and to make and enforce all necessary rules and regulations therefor, and for the exercise of such other powers as are conferred upon the Commission by this Charter.

(2) To appoint a General Manager who shall be, subject to the control of the Commission, the chief administrative officer of the department, an Assistant General Manager, bureau heads, division heads and one clerical position for each, all of whom shall hold office during the pleasure of the Commission. No such General Manager or Assistant General Manager appointed under the provisions of this section, shall be, nor have been for at least six (6) months prior to such appointment, a member of the Commission. Should an employee of the classified civil service be appointed to a position mentioned in this subsection, dismissal of such employee by the

Commission from such position shall not be a dismissal from the classified civil service, but such employee shall be restored to the rank and grade held prior to such employee's appointment under this subsection.

(3) To employ and appoint such other officers and employees as may be necessary or convenient in the execution of its functions; to prescribe and fix the duties, authority and compensation of all officers and employees; provided that all offices and places of employment in the permanent service of the Water Commission shall be created by resolution duly passed by the Commission, and provided further that all such permanent places of employment in the Water Department, except those appointed positions listed above in subparagraph (2), shall be subject to the Civil Service provisions of this Charter as are not in conflict herewith; and provided further, that any officer or employee employed by the Commission may be summarily dismissed for the good of the service by fourfifths of the Commission. The Commission may appoint additional employees, who need not be in the classified civil service, to perform emergency or temporary work. The compensation fixed by the Commission for all officers and employees in the Water Department shall be subject to the prior approval of the City Council by resolution. All other privileges and benefits to which such officers and employees shall be entitled, except as provided by this Charter or other applicable law, shall be such as shall be prescribed by the City Council by ordinance or resolution.

(4) To construct, operate, maintain, extend, manage and control works and property heretofore or hereafter acquired for the use of, or paid for directly or indirectly out of the funds of, the Water Department, and to acquire and take by purchase, lease condemnation, or otherwise, and to hold in the name of the City any and all property situated within or without the City, and within or without the State, that may be necessary or convenient for such use; and also to have, exercise and enjoy in the name of and for and on behalf of the City of Long Beach, all powers, rights and privileges, that are granted to the City, or any of its officers or bodies, under an Act of Legislature known as Chapter 429 of the Statutes of 1927 (Stats. 19027, p. 694), approved by the Governor of the State of California on the 10th day of May, 1927, and all acts amendatory thereto.

(5) To regulate and control the use, sale and distribution of water owned or controlled by the City, the collection of water charges and the granting of permits for connections with said water works; and to fix the rates to be charged for such connection including connections installed for other departments of the City; and, subject to the approval of the City Council by ordinance, to fix the rates to be charged for water for use within or without the City, including rates for water delivered to other departments of the City, and to fix rates to be charged the Fire Department for standby service to fire hydrants; and to prescribe the time and manner of payment of the same; provided that nothing in this Charter shall prevent payment to the Water Department by other departments of the City for water delivered or service rendered or labor or materials furnished to said other departments. Such rates shall be fair and reasonable, taking into consideration, among other things, the nature of the use, the quantity supplied and the value of the service; provided, however, that

the rates inside the City may be less, but not greater, than the rates outside the City for the same or similar uses.

(6) To supply and distribute, at rates fixed as hereinbefore provided, any surplus water owned or controlled by the City and not required for the use of consumers served by the City within its limits, to consumers outside the City for their own use, and to municipal corporations outside the City for municipal uses, for resale, disposal or distribution, to consumers within their limits; provided that the supplying or distribution of such surplus water shall in any case be subject to the paramount right of the City at any time, to discontinue the same, in whole or in part, and to take and hold or to distribute such surplus water for the use of the City and its inhabitants; provided, further, that contracts for supplying surplus water by the City to municipal corporations outside the City, or for any exchange of surplus water with any such outside municipal corporation, may be made by the Commission in the name of the City, for periods not exceeding fifteen years, and upon such terms and conditions, and for such compensation to the City as shall be prescribed by resolution adopted by the Commission and approved by ordinance or resolution of the City; but in every such contract, the right shall be reserved to the City to terminate the same upon three years' written notice to such municipal corporation, to be given by said Commission whenever it shall determine and declare by resolution adopted by the Commission and approved by an ordinance or resolution of the City Council, that the water to be supplied under such contract, is required for the City and its inhabitants, and every such contract must, before execution thereof, be assented to by a majority of the qualified electors of the City, voting upon the proposition at a general or special election, at which such proposition shall be submitted.

(7) To sue and be sued in the name of the Commission, and to exercise complete control over all litigation wherein it is involved, or which pertains to any matters within the jurisdiction of the Commission; provided, however, that the City Attorney shall represent the Commission in all matters to which it is a party and shall be the sole and exclusive legal adviser of the Commission with reference to any of its functions, powers or duties under this Charter.

(8) To sell or cause to be sold from time to time such personal property belonging to the Water Department as shall be no longer necessary or suitable for the use of the department.

(9) To lease, sell or dispose of any property, or any interest therein, belonging to the Water Department whenever in judgment of the Commission said property, or any interest therein, or part thereof, is no longer required for the purposes of the Water Department; said property may be leased for any purpose which does not interfere with the use of the same for the purpose of the Water Department. Any compensation received from the sale or lease of said property shall be paid into the Water Revenue Fund or such other fund of the Water Department as may be designated by the Commission, and shall be used for the purposes of the Water Department; provided, however, that except as otherwise provided in this Article, nothing herein shall authorize the Commission to sell, lease or dispose of any water rights, reservoir space or storage capacity, or any

interest or space therein. Provided, further, the Commission shall not have authority to make any lease, contract or other agreement providing for the drilling for, developing, producing, extracting, processing, taking or removing, storing and disposing of oil, gas or other hydrocarbon substances from, under, across or through any land under the control and jurisdiction of the Commission, and any such lease, contract or other agreement shall be made upon authorization of the City Council.

(10) To purchase supplies and equipment that may be necessary or convenient for the use of the Water Department.

(11) To make contracts in the name of the Commission to carry into effect the powers granted the Commission in this Charter; provided, that all contracts wherein the expenditure of funds of the Water Department exceeds the amount established by ordinance of the City Council for City departments, except contracts for labor, materials or supplies for actual emergency work, shall be made and entered into upon competitive bidding as provided in this Charter, and all powers and duties therein conferred or imposed upon the City Council and/or City Manager are hereby conferred and imposed upon the Commission. At the time of publication of notice inviting bids, specifications of the supplies or materials required, or the plans and specifications of the work to be done, must be on file in the office of the Commission, subject to public inspection. Except as provided in this Charter, all supplies and/or materials, not required to be obtained upon competitive bidding, or for actual emergency work, shall be procured for the Commission by the City Purchasing Agent or City Procurement Services Officer, in accordance with procedures prescribed therefor by the City Manager as shall not be in conflict with this Charter or other applicable law.

(12) To control and order the expenditure of all money received in connection with the operation of the Water Department or the management of properties under the control of the Commission; provided that all such monies shall be deposited in the City Treasury to the credit of a fund to be known as the "Water Revenue Fund" or to the credit of such other funds as the Commission may by resolution establish, at the direction of the Commission; any interest or increment received on the money in such fund or funds shall be paid into such fund or funds and become a part thereof; and the moneys deposited in such fund or funds shall be kept separate and apart from other money of the City, and shall be drawn only from said fund or funds upon demands allowed by the Commission, and authenticated by the signatures of the president or vice president and secretary, or by the signatures of persons designated by the Commission to sign demands. The Commission shall file with the City Auditor a notice giving the names and signatures of the president, vice president and secretary, and the names and signatures of persons, if any, designated by the Commission to sign demands in lieu of said president or vice president and secretary, as aforesaid. Payrolls for the Water Department shall be allowed by, and authenticated by the signatures of the president or vice president and the Secretary of the Commission, or persons designated by the Commission temporarily act in their respective places and stead.

The City Manager and City Council shall have jurisdiction of revenue

derived from the development and production of oil and gas on lands under the management and control of the Commission.

Sec. 1404. DEMANDS AGAINST WATER DEPARTMENT FUNDS.

The City Auditor shall approve no demand against any fund under the control of the Commission, excepting redemption of bonds and interest coupons, unless the same shall be allowed and authenticated as hereinbefore provided, and by means of warrants on the City Treasurer issued by the City Auditor. If the City Auditor, upon examination, believes that any demand is not a proper claim against any fund under the control of the Commission, he shall immediately return said demand to the Commission with his objections endorsed thereon. Such demand shall again be considered by the Commission, and if it shall again be allowed by the Commission, and said allowance over the objection of the City Auditor be certified by the signatures of the president or vice president and the secretary of the Commission, the said objection of the City Auditor shall be thereby overruled. Any demand upon which the objections of the City Auditor have been overruled by the Commission shall be again returned to the City Auditor, who shall issue a warrant upon the City Treasurer for the same in like manner as if it had been approved by the City Auditor.

Sec. 1405. ANNUAL BUDGET.

Commission shall, prior to the first day of June of each calendar year, adopt a departmental budget for the forthcoming fiscal year covering the anticipated revenue and expenditures of the Water Department. Such departmental budget shall conform, as far as practicable, to the form provided in this Charter for the general City budget. Each such budget shall contain a sum to be known as the "Unappropriated Balance," which sum shall be available for appropriation by the Commission, by resolution, in the ensuing fiscal year to meet contingencies as they may arise. A copy of every resolution making an appropriation from said unappropriated balance shall promptly be filed with the City Auditor and City Manager. Two certified copies of said budget shall forthwith, after adoption by the Commission be filed with the City Clerk for presentation to the City Council and one certified copy shall forthwith be filed with the City Auditor. Such budget shall be subject to the approval of the City Council as in this section provided. The City Council shall, not later than the first day of July of each calendar year, approve such budget adopted by the Commission or shall amend said budget and approve the same as amended not later than the first day of July of each calendar year. In the event the City Council shall not approve said budget or amend the same and adopt said budget as amended on or before said first day of July, the same shall become effective as the official budget of the Water Department for the forthcoming fiscal year. In the event the City Council shall amend said budget and approve the same as amended, as above provided, a certified copy of said approved budget as amended shall be filed with the Commission and the City Auditor. No expenditure shall be made or financial obligation incurred by the Commission, its officers or employees, except as authorized by said annual departmental budget or appropriations made subsequent to said annual budget as herein provided. Said annual departmental budget, when effective, shall constitute an appropriation covering

the anticipated revenues and expenditures of the Water Department as therein set forth.

Sec. 1406. DESIGNATION OF ALTERNATES.

Whenever provision is herein made for the discharge of specific duties by a specified appointee, the Commission may designate an employee in said department with full power to act in place of such appointee in case of such appointee's absence or inability to act.

Sec. 1407. USE OF WATER DEPARTMENT FUNDS.

None of the money in or belonging to the Water Revenue Fund or such other funds as are established by the Commission, shall be appropriated or used for any purpose except for the following purposes:

(1) For the necessary expense of operating and maintaining the water works, and for such preliminary surveys, reconnaissances, options, estimates, engineering data, experimentation and investigation, as in the discretion of the Commission shall be necessary, or as shall be incidental to the extension or betterment of the physical properties, or the business of the department and/or the acquisition of additional lands, water, water rights and/or other property.

(2) For the payment of the principal and interest, or either, due or coming due upon outstanding notes, certificates or other evidences of indebtedness issued against revenues from said works in accordance with this Charter, or bonds or other evidences of indebtedness heretofore or hereafter issued for the purpose of such works, or parts thereof.

(3) For the necessary expense of constructing, extending and improving such works, including purchases of lands, water, water rights, and other property; also the necessary expenses of conducting and extending the business of the Water Department.

(4) To return and pay into the general fund of the City, from time to time, upon resolution of the Commission, from any surplus money in the Water Revenue Fund or other funds established as aforesaid, any sums paid by the City from funds raised by taxation for the payment of the principal or interest of any municipal bonds issued by the City for and on account of the water works.

(5) To be transferred to the general fund of the City, if and when, in the judgment of the Commission, such moneys are no longer necessary for the purposes of the Commission.

Sec. 1408. REVOLVING FUND.

For the use and benefit of the Water Department or for the use and benefit of that division or branch of the City's service charged with the duty of collecting moneys due and payable to the Water Department, the Commission may, by resolution, create and establish a revolving fund, the moneys of which shall not be subject to transfer at the close of the fiscal year; and any resolution creating and establishing such a fund shall provide that the City Treasurer shall transfer to such revolving fund from the "Water Revenue Fund", not to exceed Five Thousand Dollars (\$5,000); and such revolving fund shall be used for the purpose of making change in connection with collections of the Water Department and for such other purposes as the Commission may prescribe by such resolution.

Sec. 1409. TRUST AND SPECIAL DEPOSIT FUNDS.

The Commission may, by resolution, create and establish such trust and special deposit funds as shall be necessary and convenient for the deposit of moneys received by the City or the Water Department as security for the payment of charges made for water or other commodities furnished or service rendered by said department, or for the deposit of moneys received by the Water Department as advance payment in connection with the furnishing of water or other commodity or the rendering of any service by the Water Department, or deposited with the Water Department in trust or for any special purpose in connection with the operation of the Water Department; and the fund, or funds, created and established under the authority herein contained shall be continuing funds, the moneys of which shall not be subject to transfer at the close of a fiscal year, and, anything in this Charter to the contrary notwithstanding, any such resolution may provide that disbursements from any such fund, or funds, may be made for the purpose of the trust or according to the terms and conditions of the special deposit under which the moneys in such fund, or funds, were received, without the necessity of demands, vouchers, or warrants drawn on the City Treasurer, and that such disbursements may be made in accordance with such rules and regulations as shall be prescribed in and by any such resolution.

Sec. 1410. ACQUISITION OR SALE OF REAL PROPERTY.

Any action by the Commission authorizing the acquisition or sale of real property, approval of contracts which obligate the City for a longer period of time than one year, or which involves a rule of general application to be followed by the public, shall be taken by the Commission by order or resolution. Every order or resolution adopting a rule of general application to be followed by the public, shall be published once in a daily newspaper of general circulation and shall take effect upon such publication.

Sec. 1411. IMPROVEMENT OF WATER WORKS.

The Commission shall provide for the cost of extensions and betterment of said water works, from the funds derived from the sale of bonds, so far as such funds are, or shall be, made available for the use of the Commission for said purpose, from income received from the revenue of the Water Department, and from the proceeds of loans contracted as provided in this Charter.

Sec. 1412. REPAYMENT OF BONDS.

The Commission shall each year apportion and set apart, out of the revenue fund of the Water Department, in the City Treasury, an amount sufficient to pay at maturity all sums coming due in said year for principal and interest upon all outstanding bonds issued for the Water Works and said amount shall be transferred forthwith into a special fund in the City Treasury, to be designated by a name indicating the nature or purpose of such special fund, and the money in such special fund shall be subject to apportionment by the City Auditor as may be required to make such payments of the principal and interest of said bonds and for no other purpose. Any interest or increment received on the money in any such special fund shall be paid into such special fund and become a part thereof. The foregoing provisions of this section shall apply to all such bonds now outstanding or hereafter issued; provided, however, that payments out of

revenue, as provided, of the principal interest of general obligation bonds hereafter issued for securing water from new sources, shall be required only to the extent determined by the Commission, approved by a majority vote of the City Council, prior to the submission to the electors of the City of the proposition of authorizing such general obligation bonds. Such resolutions shall be subject to amendment only by resolution of the Commission, approved by majority vote of the City Council, and assented to by a majority of the electors of the City, voting on the question of approving such resolution at a general or special election at which such question shall be lawfully submitted.

Notwithstanding all or any part of this section, nothing herein shall be construed as a limitation upon the power of the City or of any department thereof to issue revenue bonds without an election, under state law or procedural ordinance and nothing in this section or elsewhere in this Charter shall be construed to prevent a pledge of revenues to pay, or secure the payment of, the principal and interest of such revenue bonds, which pledge may have priority over any allocation of revenues to pay the principal and interest of general obligation bonds.

Sec. 1413. EMERGENCY LOANS.

The Commission shall have power, upon determination that an emergency exists which justifies it in so doing, to borrow money upon such terms and conditions, and under such procedure, as may be prescribed by resolution, for the purpose of acquiring, constructing, reconstructing, repairing, extending or improving works, for supplying the City and its inhabitants with water, and to issue notes, certificates, or other evidences of indebtedness therefore, subject to the following provisions:

(a) The whole amount of any such indebtedness shall be payable in not exceeding five years from the time of contracting the same; provided, that any such indebtedness, or part thereof, made payable after one year from the time of contracting the same, shall be subject to the right of the Commission to pay the same with accrued interest thereon on any interest due date, after said one year period.

(b) The total outstanding indebtedness incurred under the provisions of this section, for the purpose of the Water Department, must not exceed 33 $\frac{1}{3}$ % of the gross operating revenue from the Water Department during the preceeding fiscal year.

(c) The rates for water shall be so fixed as to provide for payment at maturity of the principal and interest of such indebtedness in addition to all other obligations and liabilities payable out of the revenues of the Water Department.

(d) Such indebtedness shall be payable only from the revenue of the Water Department, and shall not be an obligation of the City.

Sec. 1414. WATER DEPARTMENT'S POWER TO ACT AS CONTRACTOR.

The Water Department is empowered to act as contractor for, and do the work embraced in, the construction, reconstruction, extension or installation of water mains, piping, conduits, tunnels, hydrants and other necessary works and appliances for the purpose of providing water service.

ARTICLE XV. DEPARTMENT OF PUBLIC UTILITIES

Section 1500. ORGANIZATION.

There is hereby created and established a Department of Public Utilities, to be under the supervision and control of the City Manager in all matters. This department shall consist of the City's Gas Utility and such other public utilities as may, from time to time, be owned, operated or controlled by the City.

The City Manager shall appoint a General Manager of the Department of Public Utilities and such other supporting superintendents or managers as he determines necessary to serve at the pleasure of the City Manager.

Section 1501. UTILITY REVENUES.

All revenues received from the operation of such public utility owned and operated by the City shall be deposited and kept in a separate revenue fund in the name of the utility operation generating the revenue and shall be disbursed therefrom on behalf of each such utility operation in the following order of priority:

(a) Payment of interest and principal coming due on any bonded indebtedness relating to the utility which generates the revenue in each such specified fund;

(b) Payment of the annual operating and maintenance expenses, acquisitions, improvements and extensions of the respective utility system.

(c) Set aside a portion of each fund as a reserve to be used for contingencies in the operation of each such utility.

(d) The remainder in any of these funds determined by the City Manager to be unnecessary to meet the above obligations may be transferred into the General Purpose Fund of the city as approved in the annual budget by the City Council.

Sec. 1502. UTILITY RATES.

The rates to be charged users for any services or commodities supplied by any public utility owned and operated by the City shall be based upon the prevailing rates for similar services and commodities supplied or sold by other like utilities whether public or private, operating in the Southern California area.

ARTICLE XVI. FRANCHISES

Section 1600. GRANT OF FRANCHISE.

Plenary control over all uses of the streets and public places in the City of Long Beach is vested in the City. Franchises may be granted to persons, firms or corporations upon such terms, conditions, restrictions or limitations as may be prescribed by the City Council by ordinance, but no franchise shall be granted without reserving to the City adequate compensation for the privilege conferred.

Sec. 1601. TERM OF FRANCHISE.

No franchise shall be granted for a period longer than sixty (60) years in, upon, over, across or under any street, highway, alley, or other public place in the City.

Sec. 1602. APPLICATION FOR FRANCHISES.

An applicant for a franchise, permit or privilege shall file an application with the City Council in the manner and form required by City ordinance

or resolution.

Sec. 1603. HEARING AND BIDDING.

Each bidder shall deposit with the City Treasurer a sum of money to reimburse the City for expenses incurred in connection with the processing of the application as set forth by City ordinance or resolution. The procedures for bidding on new franchises, renewals or superceding franchises, and any hearings thereon, shall be set by ordinance.

Sec. 1604. OTHER CONDITIONS OF FRANCHISES.

Nothing in this Charter shall be construed as prohibiting the City Council from inserting in any ordinance which grants any franchise, permit or privilege, such other conditions and requirements, not inconsistent with the provisions of this Charter, or which the people may, by the initiative process indicate their desire to have inserted.

ARTICLE XVII. FINANCE

Section 1700. THE FISCAL YEAR.

The fiscal year of the City of Long Beach shall commence on the first day of July of each year and shall end on the thirtieth day of June next following, or as provided for by ordinance upon the recommendation of the City Manager.

Sec. 1701. PROPERTY TAXES.

The assessment of property for tax purposes, the equalization of such assessments, the levy, collection and enforcement of property taxes, and the redemption of property from delinquent taxes shall be as provided by State law.

All cost of removing weeds from property shall be a lien upon the real property from which such weeds have been removed. The time when the liens so provided shall attach shall be fixed by ordinance by the City Council.

Sec. 1702. CITY MANAGER'S RECOMMENDED BUDGET.

The City Manager annually shall prepare, and not later than forty-five (45) days prior to the beginning of each fiscal year, submit to the City Council the recommended budget for the forthcoming fiscal year, based upon detailed estimates furnished to the City Manager as may be prescribed. Departmental budgets of departments for which the City Manager is not administratively responsible shall be submitted as furnished by the heads of such departments, but in a form and on a date as prescribed by the City Manager.

Sec. 1703. PUBLIC BUDGET HEARINGS.

The City Council shall hold one or more public hearings before adoption of the budget.

Sec. 1704. AMENDMENT OF BUDGET.

The City Council may amend the preliminary budget and shall adopt such preliminary or amended preliminary budget as the budget for the forthcoming fiscal year, and shall not later than the end of the current fiscal year pass an appropriation ordinance conforming thereto. If the City Council fails to adopt a budget and appropriation ordinance by the time prescribed herein, the City Manager's recommended budget shall be deemed to be the budget and appropriation expenditures shall be made

in accordance therewith.

Sec. 1705. BUDGET AND APPROPRIATION ORDINANCE.

The Appropriation Ordinance shall govern and control the expenditure and commitment amounts stated therein relating to the several departments, offices and agencies during each fiscal year.

After the adoption of the Appropriation Ordinance, the City Council may authorize the transfer of any portion of an original appropriation which is deemed to be surplus, or may appropriate additional funds from available revenue or surplus which was not included in the budget.

Sec. 1706. TRUST FUNDS.

The City Manager may establish trust and special deposit funds for the deposit of money received by the City in trust or for special purposes. Disbursements may be made from such funds according to the conditions of the deposit, and under rules to be issued by the City Manager.

Sec. 1707. GENERAL PURPOSE RESERVE ACCOUNT.

The City Council may, from time to time, appropriate or transfer monies to a special account in the General Purpose Fund to be designated as the "General Purpose Reserve Account" which account is hereby created and established; provided, that the balance in said account shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000). All funds presently in the Public Improvement Reserve Fund shall be transferred to the General Purpose Reserve Account. The General Purpose Reserve Account shall be a continuing account and not subject to transfer or included in the General Purpose Fund Unreserved balance at the close of the fiscal year.

The monies appropriated or transferred to and placed in said General Purpose Reserve Account in accordance with appropriation ordinances or applicable sections of this Charter shall be used as determined by the City Council. Upon receiving consent of the City Council, by vote of two-thirds ($\frac{2}{3}$) of its members, expressed by resolution, the City Manager shall have the power to transfer or expend monies from said General Purpose Reserve Account as set forth in said resolution.

Sec. 1708. DISPOSITION OF NON-TRUST OIL PROCEEDS.

(a) The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances derived from, or allocated or assigned to all lands acquired by the City by purchase, tax deed, exchange, trade or gift, located in the Harbor District of the City, other than lands which were purchased or acquired, in whole or in part, by use of tideland trust monies, to the extent provided in Chapter 138, Statutes of 1964, First Extraordinary Session, and other than tide and submerged lands which were acquired by the City by grant from the State of California pursuant to the provisions of Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, and Chapter 158, Statutes of 1935, together with all money derived from cash bonuses paid by oil companies or individuals for oil leases on said lands, other than any tideland-trust-money-acquired lands or said tide and submerged lands (including all money paid for permits for drilling oil wells or for the erection of oil well derricks or other buildings in connection with oil development, and irrespective of whether or not such wells, derricks, or buildings are located on any tideland-trust-money-acquired

lands or on said tide and submerged lands) shall be paid into the General Bond Redemption and Interest Fund, which fund has been heretofore created and established and is hereby continued, so long as any such money shall be required for payment of any unpaid principal or interest on any and all outstanding general obligation bonds of the City other than those issued for Harbor, Water or Gas Department purposes, regardless of when such principal or interest shall be due and payable.

(b) The net proceeds received by the City from the sale or disposition of oil, gas or other hydrocarbon substances derived from, or allocated or assigned to all lands belonging to the City and located outside the Harbor District, other than lands classified as tideland-trust-money-acquired lands or tide and submerged lands, as referred to in subsection (a) above, shall likewise be paid into the General Bond Redemption and Interest Fund so long as any such money shall be required for payment of any unpaid principal or interest on any and all outstanding general obligation bonds of the City other than those issued for Harbor, Water or Gas Department purposes regardless of when such principal or interest shall be due or payable.

(c) When there shall have been deposited in said fund sufficient monies to pay the principal and interest on any and all such outstanding bonds, thereafter, and until there may be other such bonds outstanding, such money shall be paid into the Public Improvement Reserve Fund, so long as the amount of money therein shall be not more than the authorized maximum for said fund. Thereafter, whenever said funds shall be filled, and until such money shall be further required for, the General Bond Redemption and Interest Fund, such money, as received, shall be paid into the General Purpose Fund.

(d) The money deposited in the General Bond Redemption and Interest Fund may, from time to time, be invested in accordance with the provisions of applicable legislation of the State of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State. All interest, earnings, income or profits from the investment of said monies shall likewise, to the extent required, be deposited to the credit of said fund.

Sec. 1709. TIDELAND OIL REVENUE FUND.

(a) There is hereby created and established a special fund to be designated as the "Tideland Oil Revenue Fund", which shall be a continuing fund not subject to transfer at the close of the fiscal year. Revenue from the following sources shall be deposited in the City Treasury to the credit of said fund:

(1) The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances (other than dry gas), including advance payments, derived from, or allocated or assigned to, the "Long Beach tidelands", as defined in Chapter 138, Statutes of California, 1964, First Extraordinary Session.

(2) The net receipts from the sale of property used in the extraction, sale or disposition of oil, gas and other hydrocarbon substances from the Long Beach tidelands, the cost of which has been or may be defrayed from proceeds from such hydrocarbon substances.

(3) The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances (other than dry gas) derived from, or allocated or assigned to, or attributable to production from or allocated or assigned to any lands lying seaward of the northerly boundary of the Long Beach tidelands, as defined in Chapter 138 aforesaid, and westerly of the easterly boundary of the undeveloped portion of the Long Beach tidelands.

(4) The net proceeds received by the City from the sale or disposition of oil, gas and other hydrocarbon substances (other than dry gas) derived from or allocated or assigned to, or attributable to production from or allocated or assigned to any lands owned by the City, including lands under the control and jurisdiction of the Harbor Department, and which were purchased or acquired, in whole or in part, by use of tideland trust monies, to the extent provided in Chapter 138 aforesaid.

(5) The net receipts to the City from the sale of dry gas as such derived from, or allocated or assigned to, or attributable to production from, or allocated or assigned to, the Long Beach tidelands, and which said dry gas is not received into the system of the City's municipal gas department.

(6) The repayment of all sums of money advanced from said fund for the purpose of financing participants in unit agreements and unit operating agreements.

(b) The money deposited in the Tideland Oil Revenue Fund may, from time to time, be invested in accordance with the provisions of applicable legislation of the State of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in the treasury of cities in the State.

(c) Money credited to the Tideland Oil Revenue Fund may be used only for the following purposes:

(1) The payment of all reasonable and necessary expenses, whether incurred in conjunction with unitized or non-unitized operations, incident to the development, production, extraction, processing, sale or other disposition of the oil, gas and other hydrocarbon substances derived from or allocated or assigned to, the Long Beach tidelands, as defined in Chapter 138 aforesaid, the conducting of repressuring and pressure maintenance operations, and the satisfaction of all obligations arising out of or attributable to the conduct of any of the foregoing activities.

(2) The payment to the State of California, for and in compliance with the purposes and formula stated, and for the benefit and reimbursement of the respective State agencies therein designated, whether or not included in the official City budget, such amounts as shall be presently or hereafter required by reason of the enactment by the State Legislature of Chapter 29, Statutes of 1956, First Extraordinary Session as amended by Chapter 1398, Statutes of 1963, and Chapter 138, Statutes of 1964, First Extraordinary Session, as such legislation is, has been and may hereafter be construed by the courts having jurisdiction thereof.

(3) The payment of all costs and expenses incurred by the City, and not included in paragraph (1) above, incident to the supervision and administration of oil and gas operations. To the extent that any non-tideland costs and expenses with respect to such supervision and administration may be

initially paid from the Tideland Oil Revenue Fund, such fund shall be reimbursed therefor by appropriate journal entry on the books of the City in the manner determined by the City Manager.

(4) The payment of the City and Harbor District subsidence costs.

(5) To finance participants in unit agreements and unit operating agreements, including any contractor or lessee of City-controlled lands qualifying as a participant therein in the manner provided by law, in such amounts, whether or not included in the official budget, as shall be determined by the City Council to be necessary in order to encourage the initiation and conduct of repressuring operations with the greatest possible speed in a subsidence area.

(6) With prior approval of a majority of all members of the City Council, monies may be expended from said fund for all other projects and purposes authorized by Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, Chapter 158, Statutes of 1935, Chapter 29, Statutes of 1956, First Extraordinary Session, and Chapter 138, Statutes of 1964, First Extraordinary Session.

(7) To the extent monies are at any time expended from other established funds, including those providing for the operation and maintenance of the Harbor Department, in payment of costs, expenses, departmental charges or any other obligation incurred, which said costs, expenses, departmental charges or obligation could properly be charged to and paid from said Tideland Oil Revenue Fund, such fund incurring such expenditure may, with the approval of the City Manager, be reimbursed therefor. All such reimbursement transfers shall be made by journal entry on the books of the City in the manner determined by the City Manager.

Sec. 1710. TIDELAND OPERATING FUND.

(a) There is hereby created and established a special fund, to be designated as the "Tideland Operating Fund", which shall be a continuing fund not subject to transfer at the close of the fiscal year. Revenue from the following sources shall be deposited in the City Treasury to the credit of said fund:

(1) All net proceeds and revenues, exclusive of net proceeds and revenues attributable to oil and gas operations, derived from the conduct and maintenance of operations, facilities, and other improvements situated on the Long Beach tidelands outside of the Harbor District, and from operations, facilities and other improvements situated on other lands outside of the Harbor District owned by the City to the proportionate extent that such lands were acquired with, or such operations, facilities and improvements were constructed or implemented with, tideland trust monies.

(2) Interest, earnings, income or profits from the investment of money deposited to the credit of the Tideland Oil Revenue Fund.

(3) Approved reimbursement transfers from other established funds. All such reimbursement transfers shall be made by journal entry on the books of the City in the manner determined by the City Manager.

(b) The money deposited in the Tideland Operating Fund may, from time to time, be invested in accordance with the provisions of applicable legislation of the State of California providing for the investment and reinvestment of any monies in any sinking fund, or any surplus monies in

the treasury of cities in the State. All interest, earnings, income or profits from the investment of said money shall likewise be deposited to the credit of said fund.

(c) With prior approval of a majority of all members of the City Council, money credited to the Tideland Operating Fund may be expended for the purpose of performing services defraying operating and maintenance costs, making repairs, additions and betterments, making land acquisitions, constructing improvements, and for other related purposes, all as authorized by Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, Chapter 158, Statutes of 1935, Chapter 29, Statutes of 1956, First Extraordinary Session, and Chapter 138, Statutes of 1964, First Extraordinary Session.

(d) All money attributable to oil revenue remaining in the Tideland Oil Fund as of the effective date of this amendment, and without the necessity of any further action, shall be transferred, and paid into the Tideland Oil Revenue Fund. The balance of all other monies in said fund shall, without further action, be transferred and paid into the Tideland Operating Fund. Said Tideland Oil Fund shall thereupon cease to exist. Those portions of the money in said fund which are transferred and paid into the Tideland Oil Revenue Fund and the Tideland Operating Fund, respectively, shall be expended for purposes in accordance with the currently adopted appropriation ordinance.

Sec. 1711. RESERVE FUND FOR SUBSIDENCE CONTINGENCIES.

There is hereby created and established a special fund, to be designated as the "Reserve Fund for Subsidence Contingencies", which shall be a continuing fund not subject to transfer at the close of the fiscal year.

There shall be deposited in the City Treasury to the credit of said fund all monies payable to the City in accordance with any provisions for a "reserve for subsidence contingencies" as contained in the "Contractors' agreement", as defined and referred to in Chapter 138, Statutes of 1964, First Extraordinary Session. All of said amounts, together with interest, shall be invested in bonds issued by the State of California, or, if such bonds are unavailable, then in security of the United States. In the event said Chapter 138 is amended to permit the investment of moneys in said fund in bonds issued by the State of California or in security of the United States, and then this Section shall be deemed to also permit such investment instead of as restricted above.

There shall be expended from such fund, whether or not included in the official City budget, sufficient monies to indemnify and hold harmless the City, the State of California, and any and all contractors under the aforesaid Contractors' agreement from claims, judgments and costs of defense, arising from subsidence alleged to have occurred as a result of operations under said agreement.

There shall also be expended from such fund monies to pay subsidence costs or the costs of conducting repressuring operations in the event there is no oil revenue, as defined in Chapter 138 aforesaid, or the oil revenue is insufficient to pay such costs.

Monies in said fund shall not be otherwise expended, nor shall any

distribution be made therefrom, except in accordance with the provisions of Chapter 138, Statutes of 1964 First Extraordinary Session.

Sec. 1712. HARBOR REVENUE BONDS.

Notwithstanding any provision of this Charter to the contrary, any revenues which are attributable to oil and gas operations and which are subject to the jurisdiction of the Board of Harbor Commissioners or of the City, may, with the consent of a majority vote of all members of the City Council, be used to pay, or may be pledged as additional security to pay, the principal of and interest on revenue bonds of the Harbor Department.

Sec. 1713. PAYMENT OF GENERAL OBLIGATION INDEBTEDNESS.

The City Council shall annually provide, by a special tax levied upon real and personal properties, a sum sufficient to pay the principal and interest coming due upon the general obligation indebtedness of the City during the fiscal year.

Sec. 1714. LIBRARY TAX LEVY. (RESTATEMENT AND CONTINUATION BY RENUMBERING PRE-EXISTING SECTION 262, ADOPTED APRIL 5, 1935)

The City Council shall levy and collect annually, on all taxable property in the City of Long Beach, as in other cases, a special tax sufficient to maintain the Long Beach Public Library and branch libraries, and all fees and monies received by the Public Library in connection with its operations shall be deposited to the Library Fund, including all receipts for the fiscal year 1934-1935, and this money shall be used for the purpose of supporting and maintaining the Library Department, and establishing, supporting and maintaining branch libraries and purchasing or leasing such real and personal property, books, papers, publications, furniture and fixtures, and erecting such buildings as may be necessary therefor. No indebtedness exceeding the amount provided for by the appropriation ordinance for this purpose shall be incurred in any one year. This limitation shall not be construed to prevent the incurring of indebtedness for permanent improvements, to be liquidated by the proceeds of municipal bonds issued by the City, in accordance with the provisions of this Charter and of the general laws of the State of California, for the purpose of defraying the cost of such improvements.

Sec. 1715. INSURANCE.

In order to enable the City to be self-insured, the City Council shall create a separate fund, to be known as the "Insurance Fund." The City Council shall, from time to time, appropriate to said fund a sum which shall be used to meet losses of buildings or other property through destruction or damage from any cause, and losses through liability for injuries to persons or property which the City may sustain. Such fund shall be a continuing fund, the principal and accrued interest of which shall be used only for the payment of such losses and liabilities. In a like manner, the body having control of the funds of any public utility operated by the City may annually set aside from the income derived from the public utility of which said body has control, a similar fund to be used only to meet such losses to the property of such utility or the payment of liability through the operation of such utility.

Sec. 1716. CASH BASIS ACCOUNT.

The City Council may create a separate account in the General Purpose Fund to be known as "Cash Basis Account." Such account shall be a continuing account and not subject to transfer or included in the General Purpose Fund Unreserved balance at the close of the fiscal year. The City Manager shall have the power to transfer monies from the Cash Basis Account to other funds for the purpose of placing such fund or funds on a cash basis. It shall be the duty of the City Manager to provide that all money so transferred from the Cash Basis Account be returned thereto before the end of the fiscal year. All funds presently remaining in the existing Cash Basis Fund shall be transferred to the Cash Basis Account. The City Council may from time to time transfer or appropriate monies to the Cash Basis Account. Interest received on funds invested shall be paid to the General Purpose Fund.

Sec. 1717. TRANSPORTATION TAX LEVY. (RESTATEMENT AND CONTINUATION BY RENUMBERING PRE-EXISTING SECTION 240, ADOPTED NOVEMBER 6, 1962)

The City Council of Long Beach is hereby authorized to establish a fund to be known as the "Transportation Fund". The City Council may annually levy and collect a special tax on all taxable property in the City of Long Beach for the purposes of depositing in said fund an amount not to exceed five cents (5¢) on each One Hundred Dollars (\$100.00) of the assessed value of all real and personal property in the City assessed for City purposes. Said fund shall be used to meet any obligations undertaken by the City to acquire, develop, operate, or maintain a public transportation system or to provide for, or to assist a nonprofit corporation to provide such a system. The provisions of this Charter relating to public utilities and franchises shall not limit the powers conferred upon the City Council by this Section.

Sec. 1718. ESTABLISHMENT OF FUNDS.

The funds of the City shall be established by ordinance except for trust and special deposit funds for the deposit of money received by the City in trust or for special purposes established by the City Manager. Disbursements may be made from such funds according to the conditions of the deposit and under rules to be issued by the City Manager and approved by the City Council.

Sec. 1719. TRANSFER BETWEEN FUNDS.

The City Council may, by resolution authorize the transfer of money from one or more funds to another fund of the City. The resolution shall provide the return of such monies transferred before the end of the fiscal year. However, no transfer shall be made unless at the time of such transfer, there shall remain in the fund from which the transfer is made, together with all revenues anticipated to be payable into such fund during such period, sufficient money to pay therefrom all salaries and wages, claims, encumbrances and commitments payable from such fund for the period until such monies thus transferred shall be returned thereto. No such transfer shall ever be made pursuant to the foregoing provisions from funds held by the City in trust for specific purposes and uses or from the fund or funds required to be kept and maintained by the City by the

Constitution of the State of California or the general laws of said State.

Sec. 1720. GENERAL OBLIGATION BONDS.

Whenever the City Council shall determine that the public interest requires the construction, acquisition, completion, remodeling or repair of any improvement or utility, the cost of which, in addition to the other expenditures of the City, will exceed the income and revenue provided for in any one year, they may, by ordinance, submit a proposition to incur a general obligation bonded indebtedness for such purpose and proceed therein as provided in Section 18 of Article XVI, of the Constitution of this State and the general law or laws thereof. No bond issued therefor shall be sold for less than par, nor to any other than the lowest responsible bidder, after advertising for sealed proposals therefor. Several propositions for the issue of such bonds may be submitted at any special or general municipal election.

Sec. 1721. REVENUE BONDS.

The City by procedural ordinance of the City Council or pursuant to state law, may issue revenue bonds without an election for any City purpose or purposes, and, any other provisions of this Charter notwithstanding, may make such covenants and exercise such powers as are deemed necessary for the issuance and sale of such revenue bonds.

Sec. 1722. ACCOUNTING AND FINANCIAL REPORTING.

The City Manager shall establish accounting records for all cash receipts, disbursements and other financial transactions of the City which conform to generally accepted accounting principles for municipalities and the requirements of State Law and City Ordinances. In addition to any other method of accounting prescribed by generally accepted accounting principles, the financial records and reports shall include a record of appropriations and their unencumbered balances to insure that the total of expenditures and encumbrances does not exceed the amount appropriated therefor. The City Manager shall establish an organization consisting of such divisions, officers and personnel with duties he deems necessary to develop and maintain the financial records required by this section.

Sec. 1723. DEPOSIT, MAINTENANCE AND INVESTMENT OF CITY REVENUES.

All revenues, including cash and negotiable instruments, coming into the possession of any City officer or employee shall be deposited promptly in the City Treasury. The City Treasury shall be maintained in a Federal or State chartered bank or banks. Any temporarily surplus moneys in the City Treasury shall be invested in interest bearing securities as provided by State law.

Sec. 1724. THE MUNICIPAL BAND TAX. (RESTATEMENT AND CONTINUATION BY RENUMBERING PRE-EXISTING SECTION 263, ADOPTED IN 1935)

The City Council shall levy and collect annually on all taxable property in the City of Long Beach, as in other cases, a special tax sufficient to support, employ and maintain a Municipal Band.

ARTICLE XVIII. CONTRACTS

Section 1800. FORM AND EXECUTION.

The City shall not be and is not bound by any contract, except as otherwise provided herein, unless the same is made in writing, by order of the City Council, and signed by the City Manager or by another officer authorized to do so by the City Manager. The approval of the form of the contract by the City Attorney shall be endorsed thereon before the same shall be signed on behalf of the City. The City Council, by ordinance duly adopted, may authorize the City Manager, or any commission or agent of the City, with the written approval of the City Manager, to bind the City without a contract in writing for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City in an amount not exceeding the limit established by ordinance of the City Council. The Board of Harbor Commissioners and the Board of Water Commissioners may authorize contracts, in writing or otherwise, without advertising for bids, for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City in an amount not exceeding the limit established by ordinance of the City Council.

Sec. 1801. BIDS FOR CONTRACTS TO BE CALLED.

All contracts, except as otherwise provided in this Charter, or by general law, for the City or any of the departments or public institutions thereof, must be made by the City Manager with the lowest responsible bidder whose bid is in regular form, after one publication of a notice calling for bids in a daily newspaper of general circulation in the City. Said notice shall contain a brief description of the services, supplies, materials, equipment or labor required, the amount of bonds required of the successful bidder, and state the hour and day on which said bids will be opened. The City Council, by resolution adopted by the affirmative vote of five members of the City Council, may authorize the City Manager to enter into a contract on behalf of the City, in writing or otherwise, without advertising for bids for services, supplies, materials, equipment or labor for actual emergency work.

Sec. 1802. CONTRACTS OF OTHER GOVERNMENTAL AGENCIES.

The requirements of Sections 1800 and 1801 of this Charter shall not apply to purchases by the City and/or the Harbor Department and Water Department made on behalf of the City from any governmental body, officer or agency.

The City, the Board of Harbor Commissioners and Board of Water Commissioners may participate in joint and cooperative purchasing of services, supplies, materials, equipment and labor with other cities, counties, districts, state and federal governments or other governmental agencies, singly, jointly, or in districts or associations, by purchasing under their contracts on a voluntary and selective basis when authorized by a resolution of the City Council, Board of Harbor Commissioners or Water Commissioners, respectively. Such purchasing shall be in accordance with enabling legislation under federal and state statutes and revisions, amendments, executive orders, and rules and regulations pertaining thereto.

Sec. 1803. PREFERENCE TO BUSINESSES LOCATED IN THE CITY.

In determining the lowest responsible bidder for furnishing materials, equipment or supplies pursuant to a notice inviting bids, the City Manager shall award the contract to the lowest responsible bidder maintaining a place of business within the City limits if such bid is not more than one percent in excess of the bid filed by the lowest responsible bidder who does not maintain a place of business within the City limits.

If the award made is based upon the one percent preference, the contract shall specify that the same was entered into with the bidder maintaining a place of business within the city limits of Long Beach.

This section shall not be applicable unless payment is made solely from funds and revenues of the City, exclusive of funds and revenues derived from tidelands.

Sec. 1804. OPENING OF BIDS.

On the day and at the hour named in the notice calling for bids, the City Manager, or his designated representative, shall publicly open and declare all bids received, and at that time, or at such time as the City Manager may determine, shall accept the lowest regular responsible bid, or reject all bids and return all deposits accompanying said bids. The City Manager, at his option, may abandon all proceedings, or readvertise for bids in a like manner.

Sec. 1805. COLLUSION—VOID CONTRACTS.

If at any time it shall be found that any person, firm or corporation to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other person, firm or corporation, then the contract awarded shall, if the City so elects, be null and void, and the contractor and his bondsmen shall be liable to the City for all loss and damage which the City may suffer thereby; and the City Manager may advertise for a new contract for such labor, material or supplies.

Sec. 1806. CONTRACTS FOR WORK USUALLY PERFORMED BY CITY EMPLOYEES.

Notwithstanding any provisions of this Charter respecting the employment or use of employees of the City, the City Council or any Commission, when acting with regard to matters within their authority and jurisdiction, may approve and authorize contracts with private contractors for the performance of work or services usually performed by employees of the City, provided:

(a) The Council determines by ordinance, adopted by vote of two-thirds ($\frac{2}{3}$) of its members or by resolution adopted by a vote of four-fifths ($\frac{4}{5}$) of the members of any Commission, and supported by findings expressed therein, that the work or services to be contracted for can be performed by a private contractor as efficiently, effectively and at an estimated lower cost to the City than if said work or services were performed by employees of the City; and

(b) In addition to the determinations regarding efficiency, effectiveness and estimated lower cost, said ordinance or resolution shall declare that the Council or Commission has considered all other relevant factors and has determined that the performance of said work or services by a private contractor will not be detrimental or adverse to the best interests of the

citizens of the City; and

(c) No such contract shall be entered into for the performance of work or services which the provisions of this Charter or other applicable law provide are to be performed by specified officers or employees of the City, or for work or services, usually performed by the City's police officers and firefighters; and

(d) All contracts for work or services authorized to be performed by a private contractor pursuant to this section shall be subject to and in accordance with the provisions of this Charter or other applicable State and Federal law relating to contracting.

ARTICLE XIX. NOMINATIONS AND ELECTIONS

Section 1900. GENERAL CLASSIFICATION OF ELECTIONS.

Municipal elections shall be classified as follows:

1. Primary nominating elections,
2. General municipal elections, and
3. Special municipal elections.

Sec. 1901. PRIMARY AND GENERAL MUNICIPAL ELECTIONS.

The primary and general municipal elections for elective officers of the City shall be held in even numbered years, on the second Tuesday in April and the first Tuesday after the first Monday in June, respectively, and candidates elected to office shall assume such office on the third Tuesday in July and serve until election and qualification of their successors.

Only those elected offices shall be filled which become vacant on the third Tuesday in July of that year.

Sec. 1902. SPECIAL ELECTIONS

All other municipal elections shall be known as special municipal elections.

Sec. 1903. PROPOSITIONS.

The City Council shall have the power to submit to the electors of the city, at any election, any measure or proposition required to be submitted by the Constitution, this Charter, general law or by ordinance or resolution of the City.

Sec. 1904. NOMINATIONS.

Candidates for elective offices, except for the City Council, to be voted for at any general municipal election, shall be nominated by the City at large at the primary nominating election. Candidates for City Council, to be voted for at any general municipal election, shall be nominated by the respective district to be represented at a primary nominating election.

Sec. 1907. RESOLUTION ORDERING ELECTION—LIST OF CANDIDATES—PUBLICATION.

The City Council shall, by resolution, order the holding of all elections not less than thirty (30) days before the day of the primary nominating election and not less than thirty (30) days before the day of the general municipal election. The City Clerk shall enter the names of the candidates nominated in a list with the offices to be filled, and shall certify such list to the City Council as being the list of candidates nominated as required by law. The City Council shall cause said certified list of names and the offices to be filled to be published as required by the Elections Code of

the State of California.

Sec. 1909. PRINTING.

Notwithstanding the limitations set forth in this Charter relating to contracting, the City Clerk shall, with approval of the City Council, select a printing and consulting firm or firms by negotiation to provide the necessary ballots, cards and other printed election materials and supplies and advice necessary to assure that the election or elections be conducted in a timely manner and within the legal requirements of law. The City Clerk shall select any such printing and consulting firm or firms based upon their experience in handling municipal elections and ability to produce the printed materials and supplies with the necessary specialized equipment to ensure timely delivery and proper quality and quantity of such election materials and supplies for such ensuing election or elections.

Sec. 1910. STATE ELECTIONS CODE.

Unless otherwise provided by this Charter or ordinance adopted by the City Council, all municipal elections shall be held in accordance with the provisions of the Elections Code of the State of California governing municipal elections.

ARTICLE XX. INITIATIVE, REFERENDUM AND RECALL

Section 2000. POWERS RESERVED TO THE PEOPLE.

The powers of the initiative, referendum and recall of elected City officers are hereby reserved to the voters of the City. The provisions of the Elections Code of the State of California, governing the exercise of the powers of initiative and referendum in cities and governing the exercise of the power of recall of municipal officers, shall apply to the exercise of those powers in the City in so far as such provisions are not in conflict with the provisions of this Charter. However, for the purposes of the initiative and referendum, the words "next regular municipal election" set forth in said Elections Code shall mean all statewide elections and only the City's primary nominating election wherein the City Attorney, City Auditor and City Prosecutor are voted on.

Sec. 2001. PROPOSITIONS PROPOSED BY CITY COUNCIL.

The City Council may on its own motion or at the request of the Board of Harbor Commissioners or the Board of Water Commissions submit to the voters of the City any proposed ordinance, order or resolution, legislative, administrative or executive, that the City Council or such Commission might adopt. If a majority of those voting on such proposed ordinance, order or resolution vote in favor of the same, it shall be deemed to be adopted upon a declaration of the result of such election by the City Council. In the case of an ordinance it shall take effect ten (10) days after that date and have the same force and effect as an ordinance adopted under the provisions of the Elections Code of the State of California.

ARTICLE XXI. RETIREMENT SYSTEM

(RESTATEMENT AND CONTINUATION BY RENUMBERING PRE-EXISTING CHARTER SECTION 187.5, ADOPTED NOVEMBER 8, 1949, AND SECTION 187.6, ADOPTED NOVEMBER 2, 1954)

Section 2100. PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

The City shall participate in the State Employees' Retirement System and it shall be the duty of the City Council to enter into a contract with the Board of Administration thereof, within six (6) months after the effective date of this amendment, making persons in the employ of the City members of said System, except policemen and firemen who are now subject to the provisions of Section 187 of the Charter prior to the effective date of Section 187.1 thereof, all in accordance with the provisions of the "State Employees' Retirement Law," as said Law now exists or as the same may hereafter be amended; provided, however, that where said Law or amendments thereto makes available alternate benefits and other provisions at the election of the City Council, the City Council shall elect as to which benefits and provisions shall apply to employees who become members of the System, subject, nevertheless, to the conditions and limitations contained herein. The City Council may terminate any such contract only under authority granted by ordinance adopted by a majority vote of the qualified electors of the City of Long Beach.

Any such contract shall include the following conditions and limitations:

(a) The normal earliest age for service retirement shall be sixty-five (65) for miscellaneous employees and fifty-five (55) for firemen and policemen.

(b) Benefits on account of prior service, that is, service rendered to the City prior to the effective date of said contract, shall be allowed only as a percentage of the average salaries specified in said Law. For employees other than firemen and policemen said percentage for each year of prior service shall be one hundred percent (100%) of one-seventieth (1/70th) for retirement at, or over, age sixty-five (65). For firemen and policemen, upon retirement at age fifty-five (55), or higher qualification age, said percentage for each year of prior service shall be one hundred percent (100%) of the fraction of final compensation, as defined in said Law, for each year of service rendered after said effective date as determined for firemen and policemen under said Law, for retirement at age fifty-five (55), or upon qualification for service retirement at a higher age.

If a member retires for service before attaining his normal age for service retirement, said contract shall provide that his prior service pension shall be reduced to that amount which the value of the pension as deferred to said normal age will purchase at the actual age of retirement.

(c) For the purpose of calculating contributions and benefits any amount of an employee's compensation in excess of Four Hundred Sixteen Dollars and Sixty-six cents (\$416.66) per month shall be excluded.

Anything in this Charter to the contrary notwithstanding, the City Council may, without submitting the question to a vote of the qualified electors of the City, levy and collect taxes sufficient to pay all costs and expenses, or any portion thereof, required to be paid by the City to enable it to participate in the State Employees' Retirement System and the limitation of any provision hereof, with reference to the levying and collection of municipal taxes, shall not apply to any such tax authorized by this section.

All proceedings required by said Law preliminary to such participation and taken prior to the effective date of this amendment are hereby rati-

fied, confirmed and validated.

Sec. 2101. CHANGES IN RETIREMENT SYSTEM.

The City shall have the power and the City Council may do and perform any and all acts and take such action as may be necessary to place those employees of the City who now are or hereafter may become members of a coverage group included within the California State Employees' Retirement System under the Old Age and Survivors Insurance provisions of the Social Security Act; to terminate any existing contracts with the State system covering such employees co-incidentally with substitute benefits of equal or greater value becoming effective; and also to provide supplementary benefits for such employees either by contract with the California State Employees' Retirement System supplementing such as are provided by the Old Age and Survivors provisions of the Social Security Act or, in the alternative, to create a City established retirement system which will provide such supplementary benefits for such employees; provided any such system so created shall be upon an actuarially sound basis and, provided further, that at an election held for the purpose among all employees who shall then be included as members of any such coverage group under the California State Employees' Retirement System, the members of which it is proposed to include within either or both such systems, a number thereof shall vote in favor of such plan sufficient to satisfy the requirements of any United States statute providing a method of holding such an election, or in the event there shall be no such statute, then in accordance with any applicable California statute, if any there be, and otherwise as provided by ordinance.

ARTICLE XXII. EDUCATION

Section 2200. THE SCHOOL DISTRICT.

The public school system of the City of Long Beach shall comprise all the public schools within the City of Long Beach or within the territory that is now, or may hereafter be annexed thereto for school purposes, and shall be known as the "Long Beach Unified School District," and shall succeed to all the property, rights and privileges of the former Long Beach City School District, and shall consist of elementary and secondary schools as now established, and may, at the discretion of the Board of Education, include intermediate, technical, summer, industrial, night and continuation schools.

Sec. 2201. POWERS AND DUTIES OF THE BOARD OF EDUCATION.

The powers and duties of the Board of Education shall be as provided in the general law, except as hereinafter provided.

Sec. 2202. THE BOARD OF EDUCATION.

The government of the schools shall be vested in the Board of Education, consisting of five members, who shall have been residents of the territory included in the district for thirty (30) days prior to the first day declaration of candidacy may be filed. The regular school election shall be held on the third Tuesday in March of each odd-numbered year, and there shall be elected respectively two and three members of said Board of Education, whose term of office shall be four years.

Sec. 2203. VACANCIES

Vacancies in the Board of Education shall be filled for the remaining portion of the term of the vacant office at a special election to be called for that purpose. Said election shall be called within thirty (30) days after the occurrence of such vacancy. Said election shall be held within one hundred twenty (120) days after the occurrence of such vacancy, unless the same shall occur within one hundred twenty (120) days of a regular school election set forth in this Charter, in which event such vacancy shall be filled by the remaining members of the Board of Education. Should three or more vacancies exist at any one time, a special election shall be called as soon as possible by the County Superintendent of Schools.

No person appointed as a successor to serve during the remainder of a term in the Board of Education in which a vacancy occurs shall be designated as an incumbent, a member of the Board of Education, a school board member, or other designation indicating incumbency, for purposes of the next regular school election for members of the Board of Education.

Sec. 2204. ELECTORS IN OUTSIDE TERRITORY MAY VOTE AT SCHOOL ELECTION.

All territory included in the limits of the Long Beach Unified School District or that may be included within such limits, but not within the City limits, shall be deemed a part of the City of Long Beach for the purpose of holding elections for members of the Board of Education or upon other matters relating to the schools, and only for such purposes.

Sec. 2205. ELECTIONS.

All elections for members of the Board of Education, or issuing bonds of the school districts, or on propositions to be submitted to the people of the school districts, shall be called, held, conducted and the vote canvassed and declared in accordance with the laws of the State of California governing the election of city boards of education, except as to the time of holding said election and the terms of office of the members of said Board of Education, in which particulars the provisions of this Charter shall govern. The costs and expenses incurred in connection with or incident to any election held under this Article shall not be a charge upon the funds of the City.

Sec. 2206. ORGANIZATION AND MEETINGS OF THE BOARD OF EDUCATION.

The Board of Education shall enter upon the discharge of their duties on the third Monday in April after their election and shall meet upon said day and annually thereafter and organize by electing one of their number president, and one as vice-president, whose term of office shall be one year.

ARTICLE XXIII. MISCELLANEOUS**Section 2300. RETENTION OF RECORDS.**

Notwithstanding any express or implied records retention provisions of this Charter to the contrary, officers and employees of the City are not required to keep, maintain or preserve any City records or writings of any kind or character in excess of the period prescribed by the general law of the State of California.

Sec. 2301. LIBERAL CONSTRUCTION

If any section, clause, word or provision of this Charter shall be held invalid or unconstitutional, the other sections, clauses, words or provisions thereof shall not be affected thereby. All the provisions of this Charter shall be liberally construed.

Certified to be a true copy by Eunice N. Sato, Mayor and Shelba Powell, City Clerk.

Date of Special Municipal Election: November 4, 1980.

Charter Chapter 27—City of Vallejo

Amendments To The Charter Of The City Of Vallejo

[Filed with the Secretary of State December 12, 1980]

SECTION 809, EMPLOYER-EMPLOYEE RELATIONS, MEDIATION AND FACTFINDING, AND SECTION 810, EMPLOYER-EMPLOYEE RELATIONS, ARBITRATION, ARE HEREBY REPEALED.

A NEW SECTION 809, EMPLOYER-EMPLOYEE RELATIONS, MEDIATION-ARBITRATION, IS HEREBY ADDED TO READ IN FULL AS FOLLOWS:

SECTION 809. EMPLOYER-EMPLOYEE RELATIONS, MEDIATION ARBITRATION.

Consistent with applicable law, the City Council shall by ordinance provide a system of collective negotiating to include:

a. It shall be the right of City employees individually or collectively to negotiate on matters of wages, hours, and working conditions, but not on matters involving the merits, necessity or organization of any service or activity provided by law, or on any matter arising out of Sections 803(N) or 803(O) of this Charter.

b. The City Manager and/or his designated representative(s) shall negotiate in good faith with the recognized employee organizations. The City Council may appoint a committee which shall be composed solely of Council members to assist the City Manager and/or his designated representative(s) in said negotiations if the Council in its judgement deems such in the best public interest.

c. Both parties shall exchange their written demands at least 180 calendar days before the expiration of the then current agreement or arbitration award. Collective negotiations shall commence at least 150 calendar days before the expiration of the then current agreement or arbitration award.

d. Agreements reached between City representatives authorized in (b) above and the representatives of the recognized employee organizations shall be submitted in writing to the City Council for its approval, modification, or rejection. All such agreements shall provide for expiration at the end of a fiscal year. All phases of negotiations, mediation and arbitration

including the final binding decision of the mediator/arbitrator shall be completed at least 25 calendar days before the end of the fiscal year.

e. Both parties shall select and schedule a mediator/arbitrator at least 200 calendar days before the expiration of the then current agreement or arbitration award. If they are unable to agree upon a mediator/arbitrator, they shall select such person from a list of seven names to be provided by an impartial third-party mediation/arbitration service mutually acceptable to the parties. The parties shall provide the mediation/arbitration service with sufficient notice to insure receipt of the list at least 190 calendar days before the expiration of the then current agreement or arbitration award. If at least 180 calendar days before the expiration of the then current agreement or arbitration award the parties still cannot agree upon a mediator/arbitrator, they shall immediately alternately strike names from the list; the choice of the first strike to be determined by lot. The last remaining unstruck name shall be selected and scheduled as mediator/arbitrator.

f. If 90 calendar days before the expiration of the current agreement or arbitration award no agreement can be reached, or if the City Council refuses to ratify the agreement arrived at or modifies such agreement in any manner unacceptable to the employee organization, the parties shall commence mediation.

g. If no agreement between the parties has been reached within 14 calendar days after the start of mediation, the mediator/arbitrator shall thereupon commence arbitration proceedings to deal with the issues still in dispute. Each party shall put in writing its last best offer on each of the issues still in dispute within 14 calendar days after the start of arbitration proceedings, and these offers shall immediately be made public. The mediator/arbitrator shall choose one of the parties' last best offer for each issue still in dispute and shall have no power to modify or compromise the last best offers of either party. The mediator/arbitrator shall hear the evidence presented and consider all factors relevant to the issues from the standpoint of both employer and affected employees, including the interests and welfare of the public and the financial ability of the City to meet those costs. If one of the parties fails to submit its last best offer within the above allotted time, then the mediator/arbitrator shall be obligated to make an award incorporating the terms and conditions of the last best offer made by the party that has submitted its offer within the above allotted time. To the extent permitted by law, the decision of the mediator/arbitrator shall be final and binding on all parties. Any arbitration award issued shall provide for expiration at the end of a fiscal year.

h. The costs of mediation and arbitration, including the scheduling of the mediator/arbitrator, shall be borne equally by all parties. Arbitration hearings shall be conducted within the City of Vallejo and closed to the public, unless otherwise mutually agreed upon by the parties with the concurrence of the mediator/arbitrator.

i. Nothing in this section shall modify the authority of the Civil Service Commission to exercise the powers expressly confirmed upon it by this Charter.

j. The provisions of this Section shall not be construed as making any of

the provisions of Section 923 of the Labor Code of the State of California applicable to City employees. The provisions of this Section pertaining to arbitration shall be construed as an 'arbitration agreement' for the purpose of making applicable to the extent not in conflict herewith the provisions of Chapter 1 (commencing with Section 1280), Title 9, Part 3 of the Code of Civil Procedure of the State of California. Any employee who at any time participates in a strike or other work stoppage or other concerted work-related action against the City of Vallejo will be considered to have terminated his employment with the City and neither the Council nor the Civil Service Commission shall have any power to provide by reinstatement or otherwise for the return or re-entry of said employee into the City service except as a new employee who is employed in accordance with the regular employment practices of the City then in effect for the particular position of employment. The question of whether an employee charged with participating in a strike or work stoppage or other concerted work-related action did, in fact, engage in such conduct shall be determined through the disciplinary procedures applicable to employees generally.

Certified to be a true copy by Terry A. Curtola, Jr., Mayor and Mildred R. Watson, City Clerk.

Date of Special Municipal Charter amendment Election: November 4, 1980.

Charter Chapter 28—City and County of San Francisco

Amendments to the Charter of the City and County of San Francisco

[Filed with the Secretary of State December 12, 1980]

Section 3.598 is amended to read as follows:

3.598. Utility Rates

The public utilities commission shall have power to fix, change and adjust rates, charges or fares for the furnishing of service by any utility under its jurisdiction, and to collect by appropriate means all amounts due for said service, and to discontinue service to delinquent consumers and to settle and adjust claims arising out of the operation of any said utilities.

Rates may be fixed at varying scales for different classes of service or consumers. The commission may provide for the rendition of utility service outside the limits of the city and county and the rates to be charged therefor which may include proportionate compensation for interest during the construction of the utility rendering such service.

Before adopting or revising any schedule of rates or fares, the commission shall publish in the official newspaper of the city and county for five days notice of its intention so to do and shall fix a time for a public hearing or hearings thereon, which shall be not less than ten days after the last publication of said notice, and at which any resident may present his

objection to or views on the proposed schedule of rates, fares or charges.

Rates for each utility except the municipal railway shall be so fixed that the revenue therefrom shall be sufficient to pay, for at least the succeeding fiscal year, all expenses of every kind and nature incident to the operation and maintenance of said utility, together with the interest and sinking fund for any bonds issued for the acquisition, construction or extension of said utility; provided that, should the commission propose a schedule of rates, charges or fares for said utility which shall not produce such revenue, it may do so with the approval of the board of supervisors, by a two-thirds vote and it shall thereupon be incumbent to provide by tax levy for the additional amount necessary to meet such deficit. All other changes in rates, charges or fares as proposed by the commission shall be submitted by the commission to the board of supervisors for approval, and, except as in this section otherwise provided, it shall require a two-thirds vote of the board of supervisors to reject the rate changes as proposed by the commission, and if so rejected, such proposed changes in schedules or rates, charges or fares shall be returned to the commission for revision. If the supervisors shall fail to act on any such proposed schedule within thirty days, the schedule shall thereupon become effective.

Rates for the municipal railway shall be proposed by the commission and approved, rejected or amended by the board of supervisors.

Section 8.105 is deleted.

Section 8.105-1 is deleted.

Section 8.105 is added to read as follows:

8.105. Conflict of Interest and Other Prohibited Practices

(a) No officer or employee of the City and County shall become directly or indirectly interested in any contract, franchise, right privilege or sale or lease of property awarded, entered into or authorized by him in his capacity as an officer or employee, or by an officer or employee under his supervision and control, or by a board or commission of which he is a member, unless same is devolved upon him by law. An officer or employee with such an interest however acquired, shall become divested of said interest within 60 days or shall resign said office or employment.

(b) No officer or employee shall give or promise any money or other valuable thing in consideration of his nomination, appointment, or election to any City and County office or employment or accept, other than lawful political campaign contributions, any gratuity in money or other valuable thing, either directly or indirectly, from any subordinate or employee or from any candidate or applicant for a position as employee or subordinate under him.

(c) No officer or employee shall make, participate in making or in any way attempt to use his office or employment to influence a governmental decision in which he knows or has reason to know he has a financial interest, as defined by California Government Code Section 87103.

(d) No officer or employee of the city and county shall wilfully or knowingly disclose any privileged information concerning property, government, or affairs of the city and county, unless a duty to do so is imposed upon said person by law, nor shall that person use any privileged information obtained by him by virtue of his office or employment to advance the

financial or other private interest of himself or others.

(e) No person who has served as an officer or employee of the city and county shall within a period of two (2) years after termination of such service or employment appear before the Board or agency of the city and county of which he was a member in order to represent any private interest, provided, however, that said officer or employee may appear before said board for the purpose of representing himself.

(f) No officer or employee of the city and county shall receive, directly or indirectly, any compensation, reward or gift from any source except compensation from the City and County of San Francisco, or any other governmental agency to which he has been duly appointed for any service, advice, assistance or other matter related to the governmental processes of the city and county, except for fees for speeches or published writing.

(g) The civil service commission with respect to officers and employees whose positions are subject to the civil service provisions of the charter other than officers and members of the fire and police departments, the fire commission with respect to officers and members of the fire department and the police commission with respect to officers and members of the police department, are each empowered to prescribe and enforce such reasonable rules and regulations as each commission deems necessary to effectuate the purposes and intent of this section. Such rules and regulations may provide for restrictions against activities, employments and enterprises other than those described or mentioned herein when such restrictions are found necessary for the preservation of the honor or efficiency of the city and county civil service or for the protection of the best interests of the city and county service in any respect.

(h) An officer or employee shall not be deemed to be interested in any transaction described in subsections a or c above if he has only a remote interest in the transaction and if the fact of such interest is disclosed and noted in the official records of the board, commission or department and thereafter the board, commission or department authorizes, approves, or ratifies the transaction in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest or by his immediate superior unless the transaction must be awarded to the highest or lowest responsible bidder as the case may be on a particular day and the vote of such officer or member is necessary to a quorum on that day.

(1) As used in this article "remote interest" means:

(A) That of a nonsalaried officer of a nonprofit corporation:

(B) That of an employee or agent of the party involved in the transaction, if such party has 10 or more other employees and if the officer or employee was an employee or agent of said party for at least three years prior to his initially accepting his office or employment.

For the purposes of this subsection, time of employment with the party by the officer or employee shall be counted in computing the three-year period specified in this subsection even though such party has been converted from one form of business organization to a different form of business organization within three years of the initial taking of office by

such officer. Time of employment in such case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the party is the same or substantially similar to that which existed before such transfer or change in organization. For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of such party.

(C) That of a parent in the earnings of his minor child for personal services;

(D) That of a landlord or tenant of the transacting party;

(E) That of an attorney of the transacting party;

(F) That of a supplier of goods or services when such goods or services had been supplied to the transacting party by the officer or employee for at least five years prior to his election or appointment to office or employment.

(G) That of an officer, director, or employee of a bank, bank holding company, or savings and loan association with which a party to the transaction has the relationship of borrower or depositor, debtor or creditor.

(2) The provisions of this subsection shall not be applicable to any officer or employee interested in a transaction who influences or attempts to influence another officer or employee to enter into the transaction.

(i) An officer or employee shall not be deemed to be interested in a transaction pursuant to subsections a and c above if his interest is:

(1) The ownership of less than 3 percent of the shares of a corporation for profit, provided the total annual income to him from dividends, including the value of stock dividends, from the corporation does not exceed 5 percent of his total annual income, and any other payments made to him by the corporation do not exceed 5 percent of his total annual income;

(2) That of an officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty;

(3) That of a recipient of public services generally provided by the board, commission or department of which he is a member or employee, on the same terms and conditions as if he were not a member or employee of the board, commission or department.

(4) That of a landlord or tenant of the transacting party if such party is the federal government or any federal department or agency, this state or an adjoining state, any department or agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such transaction is the property in which such officer or employee has such interest as landlord or tenant in which event his interest shall be deemed a remote interest within the meaning and subject to the provisions of subsection (g).

(5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.

(6) That of a spouse of an officer or employee in his spouse's employment or officeholding if his spouse's employment or officeholding has existed for at least one year prior to his election or appointment.

(7) That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed at the time of the first consideration of the transaction and provided further that such interest is noted in its official records.

(8) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of a borrower or depositor, debtor or creditor.

(j) No member of any board or commission of the city and county shall knowingly vote on or in any way attempt to influence the outcome of governmental action on any measure or question involving his own character or conduct, his right as a member, or his appointment to any office, position, or employment, wherein the said member's financial interest is immediate, particular, and distinct from the public interest. The word "knowingly" as used in this paragraph shall mean actual or constructive knowledge of the existence of the interest which would disqualify the vote under the provisions of this section.

If under any provision of this charter or of any ordinance, resolution, rule or regulation, action on any measure or question must be taken on a particular day and such action cannot be taken by a qualified voting quorum of the board or commission on that day by reason of the disqualification from voting under the provisions of this section, said action may be postponed until, but not later than, there are sufficient qualified members present to vote and take action on said measure or question. The term "a qualified voting quorum" as used in this paragraph shall mean the presence of a sufficient number of qualified voting members of the board or commission to take either affirmative or negative action on the measure or question before the board or commission.

(k) The city attorney, the district attorney of the City and County of San Francisco or any resident or group of residents of the City and County of San Francisco may bring a suit in the superior court to compel compliance with the provisions of this section.

(l) The provisions of section 8.105 shall not apply to any member serving as a representative of any profession, trade, business, union or association on any board, commission or other body heretofore or hereafter created by an ordinance of the City and County of San Francisco which requires that the membership consist in whole or in part of representatives of specific professions, trades, businesses, unions or associations. Conflicts of interest and prohibited practices of such members and the penalties therefor shall be as prescribed by the ordinance creating such board, commission or other body or by an amendment thereto.

(m) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon a final judgment of conviction of same, shall be removed from office or in the alternative shall be subject to a penalty of not more than one year in jail and/or fine of not more than

\$10,000, as well as removal.

(n) Every contract made in violation of any of the provisions of Section 8.105 may be avoided at the instance of any party except the officer or employee interested therein. No such contract may be avoided because of the interest of an officer or employee therein unless such contract is made in the official capacity of such officer or employee, or by a board or body of which he is a member.

Section 8.405 is amended to read as follows:

8.405. Salaries of Uniformed Forces in the Police and Fire Department

(a) Not later than the 1st day of August of each year, the civil service commission shall survey and certify to the Board of Supervisors rates of compensation paid police officers or patrolmen employed in the respective police departments in all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census.

For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each police officer or patrolman classification performing the same or essentially the same duties as police officers or patrolmen in the City and County of San Francisco.

Thereupon the Board of Supervisors shall have power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the police department whose annual compensations are set forth in Section 3.531 of this Charter and said rates shall be in lieu of said annual compensations and shall be effective from the 1st day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter for police officers, police patrol drivers and women protective officers the compensation shall be fixed at a rate which is the average maximum wage paid to the police officers or patrolmen classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of police officer classifications in cities in said certification;

(2) for the first, second and third year of service for police officers, police patrol drivers and women protective officers shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the police department other than police officers, police patrol drivers and women protective officers shall include the same percent of adjustment as that established by said ordinance for police officers in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the Board of Supervisors as in this section provided and appropriations therefore shall

be based thereon.

The expression "rates of compensation", as used in this section in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation".

Working benefits and premium pay differential of any type shall be allowed or paid to members of the police department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation" as used in this section, shall mean "salary attached to the rank" as used in Section 166 of the Charter of 1932, as amended, and, with the addition of fifteen dollars per month now provided in subsection (b) with respect to members assigned to two-wheeled motorcycle traffic duty, shall also mean "compensation earnable" as used in Section 8.549.

The term "police officers or patrolmen" as used in this section shall mean the persons employed in the police departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by police officers, police patrol drivers and women protective officers in the San Francisco Police Department.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensation as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer, or police patrol driver on military leave, as defined by Section 8.361 of this Charter, shall be reckoned a part of his service under the City and County, for the purpose of computing years of service in gaining added compensation as provided for herein.

On the recommendation of the Chief of Police, the Commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the Commission, but not to exceed one month's salary in any one instance.

If any member of the department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, he shall receive the rate of compensation attached to the rank of sergeant.

(b) Not later than the 1st day of August of each year the civil service commission shall survey, and certify to the Board of Supervisors, additional rates of pay paid to members assigned to two-wheel motorcycle traffic duty in the respective police departments of all cities of 350,000 population or over in the State of California, based upon the latest decennial census. For the purpose of the civil service commission's survey and certification

the additional rates for two-wheel motorcycle traffic duty shall include the average additional amount paid to members assigned to two-wheel motorcycle traffic duty in the cities surveyed.

Thereupon the Board of Supervisors shall have power, and it shall be its duty, by ordinance, to fix the additional rate of pay for the members of the police department who are assigned two-wheel motorcycle traffic duty. The additional rate of pay will be determined by the average additional wage paid to members in regular service in the cities included in the certified report of the civil service commission who are assigned to two-wheel motorcycle traffic duty. "Average wage" as used in this paragraph shall mean the sum of the additional rates of pay certified by the civil service commission divided by the number of cities in said certification. Said additional rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

Said rate of pay shall be in addition to the rate of compensation provided for in subsection (a).

In no event shall the additional rate so fixed be less than \$15.00 per month.

(c) Not later than the 1st day of August of each year, the civil service commission shall survey and certify to the Board of Supervisors rates of compensation paid firemen employed in the respective fire departments of all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each fireman classification performing the same or essentially the same duties as firemen in the City and County of San Francisco.

Thereupon, the Board of Supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the fire department whose annual compensations are set forth or otherwise provided in Section 3.542 of this charter, and said rates shall be in lieu of said annual compensations and shall be effective from the 1st day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter the rate of compensation shall be fixed at a rate which is the average of the maximum compensation paid firemen classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of firemen classifications in cities in said certification;

(2) for the first, second and third year of service for firemen shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the fire department other than firemen shall include the same percent of adjustment as that established by said ordinance for firemen in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount

which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The expression "rates of compensation" as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by ways of holidays, vacations, other permitted absences for any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation".

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation", as used in subsections (c) and (d) of this section shall mean "salary attached to the rank" as used in Section 169 of the charter of 1932, as amended and "compensation earnable" as used in Section 8.549.

The term "firemen" as used in this section shall mean the persons employed, in the fire departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression "members of the fire department" does not include members of the fire commission.

The absence of any officer or member of the fire department on military leave, as defined by Section 8.361 of this charter shall be reckoned a part of his service under the City and County, for the purpose of computing years of service in gaining added compensation as provided in this charter.

On the recommendation of the Chief of department, the commission may reward any officer or member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, shall be thirteen percent (13%) above the compensation established for the ranks of captain and lieutenant as provided for in this section. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, shall be ten percent (10%) above the compensation established for the rank of chief's operator as provided for in this section. The rate of compensation shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this subsection, half dollars being taken to the next higher dollar amount.

(d) The rates of compensation fixed pursuant to the provisions of subsection (a) (1), (2) and (3) and the rates of compensation fixed pursuant

to the provisions of subsection (c) (1), (2) and (3) shall be the same. Such rates shall not exceed the highest average rate of compensation fixed pursuant to subsections (a) (1), (2) and (3) and (c) (1), (2) and (3) above, whether it be paid to police officers, patrolmen or firemen; provided, further, that the minimum rate of compensation attached to the rank of sergeant in the police department shall be equal to the rate of compensation attached to the rank of lieutenant in the fire department.

(c) Not later than the 25th day of August the Board of Supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions of paying the rates of compensation fixed by the Board of Supervisors as in this section provided for uniformed members of the police and fire departments for the then current fiscal year.

(f) Not later than the 1st day of August of each year, the Civil Service Commission shall determine and certify to the Board of Supervisors the percentage of increase or decrease in the cost of living during the twelve-month period ending March 31st of that same year as shown by the Consumer Price Index, All Items San Francisco, and the percentage of increase or decrease in the cost of living during the same period as shown by the Consumer Price Index, All Items, in the cities included in the certified report of said commission. The Consumer Price Index referred to herein is defined as that certain index issued by the U.S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. In the event the U.S. Bureau of Labor Statistics discontinues the compilation and publication of said indexes, the Board of Supervisors shall have the power, and it shall be its duty, to appoint a statistical fact finding committee to determine the same data pursuant to the methods theretofore used by the U.S. Bureau of Labor Statistics. The cost of living adjustments as hereinafter provided shall be based upon the percentage of such increases or decreases. The Board of Supervisors may, in addition to the rates of compensation as established herein, and at the same time said rates of compensation are established, increase said rates of compensation by an amount equal to the difference between the average cost of living increase of the cities included in the certified report of the civil service commission and the actual cost of living increase for San Francisco. In the event the Board of Supervisors elects not to grant such cost of living increase in any year in which any such increase might be granted, the Board of Supervisors shall, upon a written request filed with the Clerk of the Board of Supervisors not later than the 10th day of September of said year by representatives of the uniformed members of the police and fire departments, as designated by the police and fire commissions, respectively, submit the question of said cost of living increase to the qualified electors of the City and County at the next succeeding city-wide election. In the event said cost of living increase is approved by a majority of the qualified electors voting thereon, said cost of living increase shall be effective as of the first day of the then current fiscal year.

(g) Notwithstanding any of the provisions contained in this section, no

uniformed member of the police or fire department employed before July 1, 1976, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of any new compensation schedules, and the rates for fiscal year 1975-76 shall continue until such time as the new schedules equal or exceed the current salary increment schedules, provided, however, that such time shall not be extended beyond June 30, 1982 and provided further that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of section 8.406 of this charter.

(h) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of the compensation schedules provided for herein. Provided, however, that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this charter.

Section 8.420 is amended to read as follows:

8.420. Establishment of and Membership in Health Service System

A health service system is hereby established as a department of the city and county government and shall be subject to sections 3.680 through 3.682 and 8.420 through 8.432 inclusive. Said system shall be administered by a board to be known as the health service board.

The members of the system shall consist of all permanent employees, which shall include officers of the city and county, of the San Francisco Unified School District, and of the Parking Authority of the City and County of San Francisco and such other employees as may be determined by ordinance, subject to such conditions and qualifications as the board of supervisors may impose. Any employee who adheres to the faith or teachings of any recognized religious sect, denomination or organization and, in accordance with its creed, tenets or principles, depends for healing upon prayers in the practice of religion shall be exempt from the system upon filing annually with the health service board an affidavit stating such adherence and dependence and disclaiming any benefits under the system. The health service board shall have the power to exempt any person whose compensation exceeds the amount deemed sufficient for self coverage and any person who otherwise has provided for adequate medical care.

Section 8.559-14 is added to read as follows:

Section 8.559-14. Right to Transfer

Notwithstanding any provisions of this charter to the contrary, any person who, on or after January 1, 1981, is a member of the Police Department, and is a member of the Retirement System under Charter Section 8.559, may become a member of the Retirement System under Charter Section 8.586 by filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.559. This waiver must be without right of revocation and on a form furnished by the retirement system. The Retirement Board may require that this waiver be executed by additional persons before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.586 shall receive service credit under Charter Section 8.586 equal to their service credit under Charter Section 8.559 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.586 shall not be subject to any of those provisions of Charter Section 8.559 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year for those persons electing this transfer to Charter Section 8.586 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.559 to Charter Section 8.586 shall receive a monetary consideration not to exceed \$40,000 calculated at the rate of \$2,500 for each year of said service credit up to ten years and then at the rate of \$1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the City and County contributions held by the retirement system.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other charter or ordinance provisions, no change in the provisions of Charter Section 8.586 and those provisions incorporated therein by reference, shall apply to those persons transferring pursuant to this section unless separately approved by the electorate in a separate charter amendment.

Notwithstanding any other charter or ordinance provisions except proposed Charter Section 8.586-15 as proposed to the electorate for the election of November 4, 1980, that portion of any benefits pursuant to this section, payable because of an increase in benefits under Charter Section 8.586 subsequent to July 1, 1980, shall be reduced dollar for dollar when payable not to exceed the amount of monetary consideration plus interest said member received for making this transfer.

Section 8.585-14 is added to read as follows:

Section 8.585-14. Right to Transfer

Notwithstanding any provisions of this charter to the contrary, any person who, on or after January 1, 1981, is a member of the Fire Department, and is a member of the Retirement System under Charter Section 8.585, may become a member of the Retirement System under Charter Section 8.588 by filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.585. This waiver must be without right of revocation and on a form furnished by the retirement system. The Retirement Board may require that this waiver be executed by additional parties before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.588 shall receive service credit

under Charter Section 8.588 equal to their service credit under Charter Section 8.585 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.588 shall not be subject to any of those provisions of Charter Section 8.585 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year for those persons electing this transfer to Charter Section 8.588 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.585 to Charter Section 8.588 shall receive a monetary consideration not to exceed \$40,000 calculated at the rate of \$2,500 for each year of said service credit up to ten years and then at the rate of \$1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the City and County contributions held by the retirement system.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other charter or ordinance provisions, no change in the provisions of Charter Section 8.588 and those provisions incorporated therein by reference, shall apply to those persons transferring pursuant to this section unless separately approved by the electorate in a separate charter amendment.

Notwithstanding any other charter or ordinance provisions except proposed Charter Section 8.588-15 as proposed to the electorate for the election of November 4, 1980, that portion of any benefits pursuant to this section, payable because of any increase in benefits under Charter Section 8.588 subsequent to July 1, 1980, shall be reduced dollar for dollar when payable not to exceed the amount of monetary consideration plus interest said member received for making this transfer.

Section 8.586-15 is added to read as follows:

Section 8.586-15. Vesting

Notwithstanding any provisions of this charter to the contrary, should any member of the police department who is a member of the retirement system under Charter Section 8.586 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit calculated at termination, defined as that proportion of the normal service retirement benefit that his accrued service credit bears to 25 years, payable beginning at age 50.

Section 8.588-15 is added to read as follows:

Section 8.588-15. Vesting

Notwithstanding any provisions of this charter to the contrary, should any member of the fire department who is a member of the retirement

system under Charter Section 8.588 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit, calculated at termination, defined as that proportion of the normal service retirement benefit that his accrued service credit bears to 25 years, payable beginning at age 50.

Certified to be a true copy by John L. Molinari, President Board of Supervisors and Gilbert H. Boreman, Clerk, Board of Supervisors.

Date of General Election: November 4, 1980.

Charter Chapter 29—City of Santa Cruz

Amendments to the Charter of the City of Santa Cruz

[Filed with the Secretary of State December 15, 1980]

Section 808 of Article VIII of the Charter of the City of Santa Cruz is amended to read as follows:

Section 808. **REMOVAL OF CITY MANAGER.** The term of the City Manager shall be at the pleasure of the City Council, but removal shall require the affirmative vote of five (5) members thereof.

Section 1003 of Article X of the Charter of the City of Santa Cruz is amended to read as follows:

Section 1003. **APPOINTMENT. TERMS.** The members of each such Board or Commission shall be appointed by the City Council. They shall be subject to removal by motion of City Council adopted by at least five (5) affirmative votes. The members thereof shall serve for a term of four (4) years, and until their respective successors are appointed and qualified.

The members first appointed to such Boards and Commissions shall so classify themselves by lot that the term of one of each of their number shall expire each succeeding June 1. Where the total number of members of a Board or Commission to be appointed exceeds four, the classification by lot shall provide for the pairing of terms to such extent as is possible, in order that the terms of at least one and not more than two shall expire in each succeeding year.

Thereafter, any appointment to fill an unexpired term shall be for such unexpired period.

Notwithstanding any other provision of this Charter, the Council may, by ordinance, provide for the appointment of alternate members to serve in the place of regular members who are absent, or who disqualify themselves from participating on an item before the Board or Commission.

Section 1006 of Article X of the Charter of the City of Santa Cruz is amended to read as follows:

Section 1006. MEETINGS. ORGANIZATION. As soon as practicable, following the first day of June of every year, each of such Boards and Commissions shall organize by electing one of its members to serve as presiding officer, at the pleasure of such Board or Commission.

Each Board or Commission shall hold a regular meeting at least once each month. All proceedings shall be open to the public except as provided by State law.

The Mayor shall call the first meeting of each Board or Commission and the City Manager shall designate a City employee to act as secretary to each of such Boards and Commissions, who shall keep a record of its proceedings and transactions. Each Board and Commission may prescribe its own rules and regulations which shall be consistent with this Charter, and copies of which shall be available for public inspection.

Section 1011 of Article X of the Charter of the City of Santa Cruz is amended to read as follows:

Section 1011. PLANNING COMMISSION. There shall be a City Planning Commission appointed by the City Council, consisting of seven (7) members from the qualified electors of the City, none of whom shall hold any paid office or employment in the City Government.

Sections 1041 and 1042 of Article X of the Charter of the City of Santa Cruz is amended to read as follows:

Section 1041. PARKS AND RECREATION COMMISSION. There shall be a Parks and Recreation Commission appointed by the City Council consisting of seven (7) members from the qualified electors of the City, none of whom shall hold any paid office or employment in the City Government.

Section 1042. PARKS AND RECREATION COMMISSION. POWERS AND DUTIES. The Parks and Recreation Commission shall have power and be required to:

(a) Act in an advisory capacity to the City Council in all matters pertaining to public recreation, including playgrounds, music and entertainment;

(b) Consider the annual budget of the Parks and Recreation Department during its preparation and make recommendations with respect thereto to the City Manager and the City Council;

(c) Assist in the planning of a program for Parks and Recreation for the inhabitants of the City, promote and stimulate public interest therein, and to that end solicit to the fullest extent possible the cooperation of school authorities and other public and private agencies interested therein;

(d) Accept money, personal property or real estate, donated to the City for park or recreational purposes, subject to the approval of the City Council.

Section 1081 of Article X of the Charter of the City of Santa Cruz is amended to read as follows:

Section 1081. WATER COMMISSION. There shall be a Water Commission appointed by the City Council, consisting of seven (7) members from the qualified electors of the City, none of whom shall hold any paid office or employment in the City Government.

Section 1607 of Article XVI of the Charter of the City of Santa Cruz is

amended to read as follows:

Section 1607. MEETINGS. The Santa Cruz City Board of Education shall hold regular meetings at least once each month at such time and place as such Board may determine; provided, that such meeting shall be held at the office of the City Superintendent of Schools unless published notice is given to the contrary. At the first regular meeting in December of each year, the Santa Cruz City Board of Education shall meet to organize and choose one (1) member for president and another for vice president, each of whom shall serve for one (1) year.

Section 1004 of Article X and Section 1611 of Article XVI of the Charter of the City of Santa Cruz are repealed.

Certified to be a true copy by Joseph J. Ghio, Mayor and Patricia M. Kenyon, City Clerk.

Date of Special Municipal Charter Amendment Election: November 4, 1980.

Charter Chapter 30—County of Santa Clara

Amendments to the Charter of the County of Santa Clara

[Filed with the Secretary of State December 22, 1980]

Section 301 of the Charter is amended to read as follows:

SECTION 301

The Board of Supervisors shall:

(a) Adopt a statement of the goals of the county reflecting the quality and direction of the activities of county government for the enhancement of human and physical resources of the county. The board shall annually during July review the adopted goals and may modify them as necessary.

(b) Appoint, suspend, or remove subject to the provisions of this Charter the County Executive, County Counsel, Public Defender and members of boards and commissions.

(c) Adopt an administrative code by ordinance which shall prescribe the powers and duties of appointive departments and officers and the procedures and rules of operation of all departments and officers of the county.

(d) Provide for the number and compensation of all officers and employees.

(e) Adopt such ordinances as may be necessary to establish and carry into effect the provisions of this Charter.

Section 701 of the Charter is amended to read as follows:

SECTION 701

Employment by the county shall be divided into the unclassified and classified service.

(a) The unclassified service shall comprise the following officers and positions.

1. All elective county officers
 2. County Executive
 3. County Counsel
 4. Public Defender
 5. One confidential secretary and one administrative position to each elected county officer, the County Executive, the County Counsel and the Public Defender
 6. All members of boards and commissions
 7. Positions which are required to be filled by physicians, surgeons, or dentists
 8. Persons employed to render professional, scientific, technical, or expert service of an occasional or exceptional character
 9. Persons serving the county without compensation
 10. Persons employed to conduct a special inquiry, investigation, examination or installation, if the Board of Supervisors or the County Executive certifies that such employment is temporary and that the work should not be performed by employees in the classified service
 11. Temporary or seasonal employees as may be provided for by the Board of Supervisors under personnel rules
 12. Superintendent of Schools
 13. Chief Adult and Juvenile Probation Officers
 14. Employees designated as unclassified pursuant to Section 506 or 507
 15. Employees designated as unclassified pursuant to Section 704 (h)
- (b) The classified service shall comprise all positions not specifically included by this article in the unclassified service.

Section 803 of the Charter is amended to read as follows:

SECTION 803

Any person holding an office or employment, either elective or appointive, on the effective date of this Charter shall continue in office or employment pursuant to the provisions of this Charter.

Any person holding the position of Public Defender as of the effective dates of the amendments of sections 301 and 701 relating to the office of Public Defender shall continue in such position subject to the provisions of section 301. Any other incumbent holding a position in the classified service of such office as of such effective date shall not be affected by such amendment.

Certified to be a true copy by Dan McCorquodate, Chairperson, Board of Supervisors and Donald M. Rains, Clerk, Board of Supervisors.

Date of County Charter amendment election: November 4, 1980.

Charter Chapter 31—City of San Jose

Amendments to the Charter of the City of San Jose

[Filed with the Secretary of State December 23, 1980]

Section 407 is amended to read as follows:

Section 407. COMPENSATION. Each member of the Council, including the Mayor, shall be paid as compensation for his services as a member of the Council, for each calendar month during which he is a member of the Council, a monthly salary which shall be established by ordinance adopted pursuant to and in accordance with the provisions hereinafter set forth in this Section. No salary shall be established for any member of the Council, including the Mayor, except as provided in this Section.

On or before July 30, 1981, and between March 1st and April 30th of every odd-numbered year thereafter, the Council Salary Setting Commission shall recommend to the Council the amount of monthly salary which it deems appropriate for the members of the Council, including the Mayor, for the two-year period commencing July 1 of that odd-numbered year. The amount recommended for each member of the Council shall be the same, except that the amount recommended for the Mayor may exceed that of the other members of the Council. No recommendation shall be made except upon the affirmative vote of three (3) members of the Commission. Failure of the Commission to make a recommendation in any year within the time prescribed shall be deemed to mean a recommendation that no change be made.

Each biennial recommendation, together with the reasons therefor, shall be made in writing. Before it submits any such recommendation to the Council, the Commission shall conduct at least one public hearing on the matter. When such a recommendation has been submitted to the Council, it shall not thereafter be amended by the Commission.

The Council shall, by ordinance, which shall be subject to the referendum provisions of this Charter, adopt the salaries as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. No more than one salary setting ordinance shall be adopted on the basis of any biennial recommendation, provided that the Council may, at any time, by ordinance, reduce the salaries of the members of the Council, including the Mayor. In any salary setting ordinance adopted hereunder, the salaries for each member of the Council shall be the same, except that the salary of the Mayor may exceed that of the other members of the Council. Salaries established by ordinance adopted pursuant to the provisions of this Section shall remain in effect until amended by a subsequent ordinance adopted pursuant to the provisions of this Section.

For each member of the Council, except the Mayor, a sum, as established by the Council Salary Setting Commission, shall be deducted from the salary of such member for each regular meeting of the Council, other than regular adjourned meetings, which he fails to attend in each such calendar month; provided, however, that such deduction shall not be made for his failure to attend any meeting during which he is away on authorized City business, or from which he is absent because of his own illness or the illness or death of his spouse, parent, child, brother or sister. No deduction shall be made from the salary of the Mayor because of his failure to attend any Council meeting.

Until salaries established pursuant to the first ordinance adopted pursu-

ant to the provisions of this Section become effective, the members of the Council, including the Mayor, shall continue to receive the compensation provided under this Section as it read immediately prior to the effective date of this Section as it now reads.

Section 1001.1 is added to the Charter to read as follows:

Section 1001.1. COUNCIL SALARY SETTING COMMISSION.

There shall be, and there is hereby established, a Council Salary Setting Commission. The following provisions shall be applicable thereto:

(a) **MEMBERSHIP.** The Council Salary Setting Commission shall consist of five (5) members appointed by the Civil Service Commission. Members must be qualified electors of the City at all times during their term of office.

(b) **TERMS OF OFFICE.** Except as provided hereinbelow, the regular term of office of each member of the Council Salary Setting Commission shall be four (4) years. The initial members of the Council Salary Setting Commission shall be appointed by the Civil Service Commission during the month of January, 1981. Two (2) of the members so appointed shall be appointed for a term expiring on December 31, 1982; and three (3) of the members so appointed shall be appointed for a term expiring on December 31, 1984. Commencing in December of 1982, the Civil Service Commission shall, during the month of December of each even-numbered year, make appointments to fill the offices of the members whose terms are expiring at the end of such even-numbered year. Such appointments shall be for regular terms of four (4) years commencing on the first day of January of the following odd-numbered year and expiring on the 31st day of December of the second even-numbered year thereafter.

(c) **VACANCIES.** The office of a member shall become vacant upon the happening before the expiration of his term of any of the events set forth in subsections (a), (b), (c), (d), (e), (h), (i), (j), (k), and (l) of Section 409 of this Charter. Also, the Civil Service Commission may remove a member from office at any time for misconduct, inefficiency or willful neglect in the performance of the duties of his office providing it first states in writing the reasons for such removal and gives such member an opportunity to be heard before the Civil Service Commission in his own defense. If a vacancy occurs before the expiration of a member's term, the Civil Service Commission shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term of such member.

(d) **POWERS AND DUTIES.** The Council Salary Setting Commission shall biennially make recommendations respecting salaries for members of the Council, including the Mayor, as provided in Section 407 of this Charter.

Section 803.1 is added to the Charter to read as follows:

SECTION 803.1. CITY ATTORNEY; POWER OF APPOINTMENT.

Subject to the Civil Service provisions of this Charter and of any Civil Service Rules adopted pursuant thereto, the City Attorney shall appoint all officers and employees, exclusive of clerical, employed in the Office of the City Attorney, and when he deems it necessary for the good of the service, he may, subject to the above-mentioned limitations, suspend without pay, demote, discharge, remove or discipline any such officer or em-

ployee whom he is empowered to appoint. Neither the Council nor any of its members nor the Mayor shall in any manner dictate the appointment or removal of any such officer or employee whom the City Attorney is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Attorney anything pertaining to the appointment and removal of such officers and employees.

Section 805.1 is added to the Charter to read as follows:

SECTION 805.1. CITY AUDITOR; POWER OF APPOINTMENT.

Subject to the Civil Service provisions of this Charter and of any Civil Service Rules adopted pursuant thereto, the City Auditor shall appoint all officers and employees employed in the Office of the City Auditor, and when he deems it necessary for the good of the service he may, subject to the above-mentioned limitations, suspend without pay, demote, discharge, remove or discipline any such officer or employee whom he is empowered to appoint. Neither the Council nor any of its members nor the Mayor shall in any manner dictate the appointment or removal of any such officer or employee whom the City Auditor is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Auditor anything pertaining to the appointment and removal of such officers and employees.

Section 1704 of the Charter is amended to read as follows:

Section 1704. **DEFINITIONS.** Unless the provisions of the context otherwise require, as used in this Charter:

- (a) "Shall" is mandatory and "may" is permissive;
- (b) "City" is the City of San Jose and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of San Jose;
- (c) "Council" is the Council of the City of San Jose;
- (d) A "member of the Council" means any one of the members of the Council, including the Mayor;
- (e) "County" is the County of Santa Clara;
- (f) "State" is the State of California;
- (g) "Newspaper of general circulation within the City" is defined by Section 6000 of the Government Code of the State of California;
- (h) The masculine gender includes the feminine and neuter.

Section 1111 is added to the Charter to read as follows:

SECTION 1111. COMPULSORY ARBITRATION FOR FIRE AND POLICE DEPARTMENT EMPLOYEE DISPUTES.

It is hereby declared to be the policy of the City of San Jose that strikes by firefighting and peace officers are not in the public interest and should be prohibited, and that a method should be adopted for peacefully and equitably resolving disputes that might otherwise lead to such strikes.

If any firefighter or peace officer employed by the City of San Jose willfully engages in a strike against the City, said employee shall be dismissed from his or her employment and may not be reinstated or returned to City employment except as a new employee. No officer, board, council or commission shall have the power to grant amnesty to any employee charged with engaging in a strike against the City.

The City, through its duly authorized representatives, shall negotiate in good faith with the recognized fire and police department employee organizations on all matters relating to the wages, hours, and other terms and conditions of City employment, including the establishment of procedures for the resolution of grievances submitted by either employee organization over the interpretation or application of any negotiated agreement including a provision for binding arbitration of those grievances. Unless and until agreement is reached through negotiations between the City and the recognized employee organization for the fire or police department or a determination is made through the arbitration procedure hereinafter provided, no existing benefit or condition of employment for the members of the fire department or police department bargaining unit shall be eliminated or changed.

All disputes or controversies pertaining to wages, hours, or terms and conditions of employment which remain unresolved after good faith negotiations between the City and either the fire or police department employee organization shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse by the City or by the recognized employee organization involved in the dispute.

Representatives designated by the City and representatives of the recognized employee organization involved in the dispute, controversy or grievance shall each select one arbitrator to the Board of Arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the Arbitration Board shall be selected by agreement between the two arbitrators selected by the City and the employee organization, and shall serve as the neutral arbitrator and Chairman of the Board. In the event that the arbitrators selected by the City and the employee organization cannot agree upon the selection of the third arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, then either party may request the State of California Conciliation Service to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the arbitrators selected by the City and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) to act as the third arbitrator, they shall alternatively strike names from the list of nominees until only one name remains and that person shall then become the third arbitrator and chairman of the Arbitration Board.

Any arbitration convened pursuant to this section shall be conducted in conformance with, subject, and governed by Title 9 of Part 3 of the California Code of Civil Procedure.

At the conclusion of the arbitration hearings, the Arbitration Board shall direct each of the parties to submit, within such time limit as the Board may establish, a last offer of settlement on each of the issues in dispute. The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms with those factors traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of public and private employment, including, but not limited to, changes in the

average consumer price index for goods and services, the wages, hours, and other terms and conditions of employment of other employees performing similar services, and the financial condition of the City and its ability to meet the cost of the award.

After reaching a decision, the Arbitration Board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Arbitration Board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten-day period the parties may meet privately, attempt to resolve their differences, and by mutual agreement amend or modify any of the decisions of the Arbitration Board. At the conclusion of the ten-day period, which may be extended by mutual agreement between the parties, the decision of the Arbitration Board together with any amendments or modifications agreed to by the parties shall be publicly disclosed and shall be binding upon the parties. The City and the recognized employee organization shall take whatever action is necessary to carry out and effectuate the award.

The expenses of any arbitration convened pursuant to this section, including the fee for the services of the Chairman of the Arbitration Board, shall be borne equally by the parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.

Certified to be a true copy by Janet Gray Hayes, Mayor and Helen E. Jackson, City Clerk.

Date of General Municipal Election: November 4, 1980.

Charter Chapter 32—City of San Mateo

Amendments to the Charter of the City of San Mateo

[Filed with the Secretary of State December 23, 1980]

Section 2.03 of the Charter is amended to read as follows:

Section 2.03. COMPENSATION OF THE CITY COUNCIL

The mayor and other members of the city council shall each receive as compensation for their services as council members the sum of Three Hundred Dollars per month.

Section 5.05 of the Charter is amended to read as follows:

Section 5.05. LIMITATION ON RESERVES FOR CONTINGENCIES

The reserves for contingencies in each new budget shall not exceed five per cent (5%) of the budget for the previous fiscal year.

Section 5.07 of the Charter is amended to read as follows:

Section 5.07. CAPITAL PROGRAM

(a) The manager shall annually prepare and submit to the council a five-year capital program at the same time budget recommendations for the next succeeding fiscal year are submitted to the council by the manager.

Certified to be a true copy by John J. Murray, Jr., Mayor and Doris Christen, City Clerk.

Date of Special Municipal Election: November 4, 1980.

Charter Chapter 33—County of Placer

Charter of the County of Placer

[Filed with the Secretary of State December 23, 1980]

CHARTER.

ARTICLE I.

NAME, POWERS AND THEIR EXERCISE

Sec. 101. Name and Boundaries. The name of the county is "Placer County". Its boundaries and county seat shall be and remain as they are at the time this Charter takes effect.

Sec. 102. Powers. The County has and shall have all the powers which are now or may hereafter be provided by the Constitution and the laws of the State of California and by this Charter.

Sec. 103. Exercise of Powers. The powers mentioned in the preceding section shall be exercised only by a Board of Supervisors or through agents and officers acting under its authority or authority conferred by law.

ARTICLE II.

BOARD OF SUPERVISORS

Sec. 201. Governing Body. The Board of Supervisors is the governing body of Placer County. The Board consists of five (5) members.

Sec. 202. Districts. The County is divided into five (5) supervisorial districts. The boundaries of the supervisorial districts shall be and remain as they are at the time this Charter takes effect until otherwise changed pursuant to the general law.

Sec. 203. Supervisors, Election at Large, District Residency Required. Each member of the Board of Supervisors shall be a resident of one of the five (5) supervisorial districts. Each member shall have been a resident of the district he seeks to represent for at least thirty (30) days immediately preceding the deadline for filing nomination papers for the office of Supervisor and shall reside in the district during his incumbency. Members of the Board of Supervisors shall be elected by the voters of the County at large.

Sec. 204. Meetings. The Board shall meet in regular session at least once in each of four weeks every month unless a regular meeting day is a holiday. The Board shall provide by ordinance for a manner, time and place of holding all regular meetings.

Sec. 205. Term of Office. Except as otherwise provided in this Charter members of the Board of Supervisors shall be nominated and

elected pursuant to the general law for a term of four (4) years. Members of the Board of Supervisors may be removed as provided under the general law.

Sec. 206. Vacancies. If a vacancy occurs on the Board of Supervisors, it shall be filled by the unanimous vote of the remaining members, and if they shall fail to make such appointment within thirty (30) days of the occurrence of any such vacancy, then such vacancy shall be filled by the Governor; provided that any appointment under this section shall be of a person who for at least thirty (30) days prior to his appointment has been a resident of the supervisorial district in which the vacancy exists.

Sec. 207. Compensation. Members of the Board of Supervisors shall receive compensation as established by ordinance from time to time. Until the effective date of the first such ordinance subsequent to the effective date of the Charter, members of the Board of Supervisors shall continue to receive the same compensation as now provided for by law.

ARTICLE III.

GENERAL POWERS AND DUTIES OF THE BOARD OF SUPERVISORS

Sec. 301. In General. The Board shall have all the jurisdiction and authority which now or which may hereafter be granted by the Constitution and the laws of the State of California or by this Charter.

Sec. 302. Duties. The Board shall:

(a) Appoint or provide for the appointment by ordinance of all County officers other than elective officers, and all officers, assistants, deputies, clerks, and employees whose appointment is not provided for by this Charter. The Board shall from time to time, provide by ordinance, for the compensation of elective officers and of its appointees, unless such compensation is otherwise fixed by this Charter.

All appointments not otherwise provided for in this Charter, except in the cases of appointees to the unclassified service, shall be made pursuant to the County Civil Service System, as it now exists or hereafter may be amended by ordinance.

(b) Provide, by ordinance, for the number of assistants, deputies, clerks, and other persons to be employed from time to time in the several offices and institutions of the County, and for their compensation.

(c) Provide, by ordinance, for the creation of offices other than those required by the constitution and laws of the State, and for the appointment of persons to fill the same, and to fix their compensation.

(d) Adopt the annual budget of the County.

(e) Establish a system of priorities and levels of service which are to be provided by the County to the public and among and between departments of the County.

(f) Perform or provide for the performance of such functions as are required by statutes of the State of California.

(g) Take such measures as may be necessary from time to time to implement the provisions of this Charter.

Sec. 303. Other Enumerated Powers. The Board may:

(1) Provide, by ordinance, for the creation of offices, boards and com-

missions other than those required by the constitution and laws of the State, and for the appointment of persons to fill such offices, boards and commissions, and prescribe their powers, terms of office and duties, and fix their compensation.

(2) Create, abolish, consolidate, segregate, assign or transfer the powers and duties of any appointive office, department, division, board or commission to the extent not in conflict with this Charter.

(3) Consolidate, segregate, assign or transfer the powers and duties of any elective office or division thereof to the extent authorized by the Constitution of the State of California and not in conflict with this Charter.

(4) Require periodic or special reports of expenditures and costs of operation, examine all records and accounts and inquire into the conduct of any office, commission, department or other entity to which the County contributes funds.

(5) Require the attendance of any officer or employee of the County at any meeting of the Board for the purpose of information, advice and assistance.

(6) Contract with a city, district, public agency or political subdivision in the County for the performance by County officers or employees of any or all of the functions of such city, district, public agency or political subdivision.

ARTICLE IV.

OFFICERS OTHER THAN SUPERVISORS

Sec. 401. Elective Officers. The elective officers of the County other than members of the Board shall be:

Sheriff—Coroner (consolidated)

District Attorney

Assessor

Superintendent of Schools

Auditor—Controller (consolidated)

County Clerk—County Recorder (consolidated)

Treasurer—Tax Collector (consolidated)

Sec. 402. Appointive Officers. The appointive officers of the County shall be:

A Chief Executive Officer who shall be the county administrator.

County Counsel

Such other officers as now are or which may be hereafter authorized by the general law of the State of California or this Charter and established in pursuance thereof.

Sec. 403. Officers, Election and Term. All elected officers of the County shall be nominated and elected in accordance with the general law. The term of office of any such officer shall be as provided under the general law. Removal from office of any elected County officer shall be as provided in the general law.

Sec. 404. Elected Officers, Vacancies. Whenever a vacancy occurs in any elective county office, other than a member of the Board of Supervisors, the Board shall fill such vacancy and the appointee shall hold office until the next general election and until his successor is elected and quali-

fied.

Sec. 405. Tenure of Office. Terms of all officers, employees, and members of boards and commissions, unless otherwise by law or this Charter provided, shall be at the pleasure of the appointing power.

ARTICLE V DUTIES OF OFFICERS

Sec. 501. In General. Unless otherwise specified in this Charter, officers of the County other than members of the Board, shall have such duties as shall be prescribed by the Board from time to time and such other duties as shall be required of officers in charter counties by the Constitution and general laws of the State of California.

Sec. 502. County Executive Officer.

(a) Appointment. The County Executive Officer is the chief administrative officer of the County. The County Executive Officer shall be appointed by the Board on the basis of executive and administrative qualifications and experience. The County Executive Officer's performance shall be evaluated by the Board from time to time. The County Executive Officer serves at the Board's pleasure and may be removed by an affirmative vote of three of its members.

(b) General Powers and Duties. The County Executive shall be responsible to the Board of Supervisors for the proper and efficient administration of such of the affairs of the county as are or hereafter may be placed in the provisions of this Charter, or of any ordinance, resolution or order of the Board of Supervisors. He shall also act in an advisory capacity to and with the Board of Supervisors with respect to any necessary or proper coordination of functions of officials and boards not under his jurisdiction or control.

Sec. 503. Other Duties.

(a) Coordinate the work of all offices and departments, both elective and appointive, and devise ways and means to achieve efficiency and economy in all County operations.

(b) Appoint, suspend or remove subject to confirmation by the Board of Supervisors all appointive department heads except the County Counsel. Appointments shall be on the basis of executive and administrative qualifications as determined by screening and selection procedures.

(c) Formulate and present to the Board plans to implement policies and accomplish goals established by the Board.

(d) Provide systematic planning of the budget, recommend long range capital planning, and recommend an annual budget after reviewing requests of all departments and agencies for which the Board is responsible or which request County funds.

(e) Have responsibility for the administration of the budget after its adoption by the Board.

(f) Provide for in-depth analysis and review of all County programs on a regular basis in such manner that the Board may make policy decisions.

(g) Provide and implement systems of adequate checks and controls to safeguard County money and property.

(h) Implement the system of priorities and levels of service established

by the Board.

(i) The County Executive Officer shall have such other powers and shall perform such other duties as are consistent with this Charter as prescribed by the Board.

Sec. 504. Board Meetings and Deliberations. The County Executive Officer may attend any meeting of the Board of Supervisors, except that attendance at a meeting at which the County Executive Officer's evaluation or removal is considered shall be at the Board's discretion. The County Executive Officer may participate in discussions of the Board but may not make motions or vote.

Sec. 505. Cooperation with County Executive Officer. All elective officers of the County and all officers appointed by the Board of Supervisors shall cooperate with the County Executive Officer.

Sec. 506. Communication with Employees. A Supervisor shall communicate recommendations or instructions to officers and employees under the County Executive Officer's supervision only through him. This section does not limit a Supervisor's right to obtain information.

Sec. 507. County Counsel. The County Counsel shall be appointed by the Board of Supervisors and serve at its pleasure. Unless his duties are otherwise prescribed or modified by an ordinance of the Board, he shall have all the powers and duties of a County Counsel now or hereafter set forth in the general laws.

ARTICLE VI GENERAL

Sec. 601. Charter Review. The Board of Supervisors shall convene a Charter review committee within two (2) years of the effective date of this Charter and within five (5) years of the last Charter review thereafter. The committee shall review the Charter and, after at least two (2) public hearings, make recommendations for amendments to or revisions of this Charter to the Board.

Sec. 602. Fiscal Provisions. General law shall govern the assessment of property, the levy and collection of taxes, the adoption of the County budget, and the appropriation, accounting and transfer of funds unless otherwise provided for in this Charter or by ordinance.

Sec. 603. General Law. Unless the context of this Charter otherwise requires the terms "general law" or "general laws" as used herein mean the Constitution and Statutes of the State of California.

Sec. 604. Continuation of Laws in Effect. All laws of the County in effect at the effective date of this Charter shall continue in effect according to their terms unless contrary to the provisions of this Charter, or until repealed or modified pursuant to the authority of this Charter or the general law.

Sec. 605. Continuation in Office. Nothing in this Charter shall be construed to affect the tenure of office of any of the elective officers of the county in office at the time this Charter goes into effect, and such officers shall continue to hold their respective offices until the expiration of the term for which they were elected, unless sooner removed in the manner provided by law. But the successors of each and all of such officers shall

be elected or appointed as in this Charter provided or as shall be provided pursuant to ordinances enacted under the authority of this Charter.

Certified to be a true copy by Theresa A. Cook, Chairman, Placer County Board of Supervisors, Phyllis Harris, Clerk of the Board of Supervisors, and Gay Trombley, Placer County Clerk-Recorder.

Date of General Election: November 4, 1980.

Charter Chapter 34—City of Sacramento

Amendments to the Charter of the City of Sacramento

[Filed with the Secretary of State December 24, 1980]

Section 85 of the Charter is amended to read as follows:

Sec. 85. Veterans' Preference.

(a) Subject to the provisions of paragraph (b) of this section, in all tests and examinations held by the civil service commission pursuant to the provisions of this Charter, any person who at the time of taking such test or examination has served in the armed forces of the United States in time of war and who received an honorable discharge therefrom or who, after such service to the United States in time of war, has continued in such service or who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions, as such persons are defined by state law in effect at that time and who has attained a percentage qualifying such applicant for any position under civil service regulations, shall be allowed an increase of ten points above the credit such applicant has attained in such examination.

(b) (1) Any person who has previously received a veteran's preference on an examination for federal employment, or for employment with any public agency in California, and who, by virtue of the preference was certified and subsequently appointed to a position with the federal government or any public agency in California, shall not be entitled to a preference under this section.

(2) No preference shall be granted under this section to any veteran who was discharged more than ten years prior to the final filing date stated on the examination announcement, or prior to the date on which an eligible list is established if no final filing date is stated on the announcement; provided, however, that veterans who are declared by the United States Veterans Administration to have a service connected disability of 30% or more at the time of taking such test or examination, if otherwise qualified for the preference provided for by sub-section (a), shall be entitled to such preference without limitation as to the time during which such preference may be used.

(3) No preference shall be granted under this section to any person who retired from the armed forces at or above the rank of major, or its equivalent.

(4) The preference granted under this section shall not apply to promotions, or to promotional examinations.

Sec. 153 is hereby amended to read as follows and to be effective upon certification by the Secretary of State.

Sec. 153. Taking Office.

All elected officials shall take office the fourth Tuesday following the first Monday in the month of November in the year of their election, and their terms of office shall commence on said date.

Section 32 of the Charter is amended to read as follows:

Sec. 32. Ordinances.

(a) Every proposed ordinance shall be introduced in writing. The enacting clause of each ordinance enacted by the council shall be "Be it Enacted by the Council of the City of Sacramento." The enacting clause of each ordinance enacted by the initiative or referendum process shall be "Be it Enacted by the People of the City of Sacramento." Each ordinance shall contain a title which shall state in general terms the subject or subjects contained in the ordinance.

(b) Except as otherwise provided elsewhere in this Charter, and with the exception of ordinances which take effect immediately upon adoption, ordinances shall be adopted in compliance with either the procedure set forth in subsection (c) or subsection (d) of this section.

(c) The ordinance shall be first passed by the Council for publication of title. At least six days shall elapse between the date the ordinance was passed for publication of title and the date it is adopted by the Council. The title of the ordinance shall be published by printing said title in a newspaper of general circulation published within the City designated by the Council as the official newspaper of the City, no later than the third day immediately preceding the date of the adoption of the ordinance. No part of any ordinance, or proposed ordinance, other than its title, need be published.

(d) In lieu of the procedure set forth in subsection (c) of this section, ordinances shall be published in the official newspaper of the City within ten days after adoption by the Council.

(e) Ordinances which take effect immediately upon adoption, may be adopted without compliance with subsections (b), (c) or (d) of this section.

(f) Except as otherwise provided in this Charter, each adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any later date specified therein.

(g) The following ordinances shall take effect immediately upon adoption or at such later dates, of less than thirty (30) days after adoption, as may be specified in the ordinances:

(1) An ordinance calling for or otherwise relating to an election;

(2) An ordinance adopted as and declared by the city council to be an emergency measure, containing a statement of the facts constituting such emergency, if adopted by the affirmative votes of at least six members of the council; provided, that no measure making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for its service by a public utility, other than one operated by the

city, may be so enacted; and

(3) An ordinance adopted pursuant to a state law by virtue of which such ordinance shall be effective immediately.

(h) Nothing contained in this section shall be deemed to require an ordinance when an ordinance is not otherwise required.

Certified to be a true copy by Phillip L. Isenberg, Mayor and Lorraine Magana, City Clerk.

Date of Special Municipal Election: November 4, 1980.

Charter Chapter 35—City of Pasadena

Amendments to the Charter of the City of Pasadena

[Filed with the Secretary of State December 29, 1980]

Section 401 is amended to read as follows:

Section 401. NUMBER AND TERM. There shall be a Board of Directors, also known as the City Council, (hereinafter designated as "Board"), consisting of seven members, who shall be nominated and elected by District as provided in this Charter. The term of office shall be four years beginning at twelve o'clock noon of the first Monday in May next following their election and until their respective successors are elected and qualify. The Directors in office at the time this Charter amendment takes effect shall continue in office until the end of their respective terms as heretofore fixed, and until their successors are elected and qualify.

Section 403 is repealed.

Section 403.5 is renumbered to Section 403 and amended to read as follows:

Section 403. VACANCY DEFINED. If any Board member shall cease to be a resident of the District from which elected or appointed, shall be absent without permission of the Board from all regular Board meetings for 60 consecutive days from the last regular meeting attended, shall resign, shall be adjudged legally incompetent, or shall be otherwise barred from holding office by reason of state or federal law, that office shall thereupon be declared vacant by majority vote of the Board.

Section 1204 is amended to read as follows:

Section 1204. CANDIDATES. The two persons receiving the highest number of votes at the primary election for the candidates for office of Board member from that district shall be the candidates for election by that district's voters and only their names shall be printed upon the ballot to be used in that district at the general municipal election. Any person who, at the District Primary Election, shall receive a majority of the total vote cast for candidates for said office shall be elected to such office as such member of the said Board.

Article XVI is added to the Charter to read as follows:

**ARTICLE XVI
PARK PRESERVATION**

SECTION 1601. USE AND DISPOSITION OF PARK PROPERTY. All dedicated park land owned by the City shall be used only for park and recreational purposes, and shall not be sold, transferred or used for other purposes, except upon the approval of a majority of the voters at an election held for such purpose. The Board shall adopt by ordinance regulations to preserve and protect such dedicated park land. For purposes of this Charter, “dedicated park land” means property now owned or hereafter acquired which has been dedicated by ordinance and used for park and recreation use.

Nothing in this Article shall supersede the provisions of Article XIV of this Charter, nor shall it prohibit or preclude the transfer between the funds or the general fund of real property paid for out of the Water or Light and Power Funds of City without a vote of the people, so long as the use is compatible with park and recreation use in the discretion of the Board.

As used in this article “park and recreation use” means and includes active recreational uses such as organized and leisure athletic and sports activity and unorganized play; cultural activities such as plays, concerts, festivals, exhibitions and shows; passive recreational activities such as picnics and public gatherings; the use of existing structures by community organizations; commercial activities incidental to park and recreational activities such as the sale of food and beverages; and parking.

SECTION 1602. STREETS—OPENING AND WIDENING. The Board may, without a vote of the people, authorize by resolution the opening and widening of streets or the installation of public utilities or sanitary sewers through dedicated park land by the City. After notice and hearing and upon a finding that the public interest requires such action, said resolution shall be adopted by vote of not less than $\frac{2}{3}$ of the members of the Board. The Board may impose terms and conditions upon the authorization consistent with this Article.

SECTION 1603. PRESERVATION OF PARK PROPERTY. When dedicated park land is sold or its use changed pursuant to the provisions of Section 1601, land of comparable area or value in the same region of the city shall be acquired or dedicated for park purposes, unless otherwise approved by the voters at said election. If replacement is impractical, the market value of such land shall be placed in a “Park Acquisition Fund” for park acquisition or development as the Board may determine.

Section 1503 is amended to read as follows:

SECTION 1503. ACTUARIAL TABLES, RATES AND VALUATIONS. The mortality, service and other tables and rates of contributions for members as recommended from time to time by the actuary and the valuations determined by him from time to time and approved by the Retirement Board shall be final and conclusive and the contributions of the City and members to the Retirement System shall be based thereon. The same actuarial tables, rates, valuations and assumptions, including but not limited to assumptions concerning future investment return and salary inflation, shall be used in calculating member contributions pursuant

to Section 1509.9 hereof as are used in calculating city contributions pursuant to Section 1509.92 hereof.

The actuary shall, in valuing the system for any purpose hereunder, reflect as an asset all moneys in the unallocated interest earnings in excess of 2 per cent of total assets excluding unallocated interest earnings.

The second paragraph of Section 1502 is amended to read as follows:

The Retirement Board shall have the sole power and authority under such general ordinances as may be adopted by the legislative body to hear and determine all facts pertaining to applications for and awards of any benefits under the Retirement System, or any matters pertaining to the administration thereof. Said Retirement Board shall have exclusive control of the administration and investment of such fund or funds as may be established and all investments shall be subject to the same terms, limitations and restrictions as are imposed by the Constitution and laws of the State upon the investment of the Public Employees' Retirement System Funds, as now enacted or hereafter amended; provided, however, that the legislative body may from time to time establish such different or additional terms, limitations, or restrictions as are recommended by majority vote of the Retirement Board. The authority of the legislative body pursuant to this paragraph includes, but is not limited to, the right to establish limitations on the classes or types of investments and on the percentage of the Retirement System's funds which may be invested in each class or type. Such limitations may be either more or less restrictive than those applicable to the Public Employees' Retirement System Funds.

Certified to be a true copy by Jo Heckman, Chairman of the Board of Directors of the City of Pasadena and Harriett C. Jenkins, City Clerk.

Date of Special Election: November 4, 1980.

Charter Chapter 36—City of Santa Clara

Amendment to the Charter of the City of Santa Clara

[Filed with the Secretary of State December 29, 1980]

Section 1320 of the Charter is amended to read as follows:

Section 1320. Utilities Fund. Receipts from the utilities operated by the City shall be paid into the City Treasury and maintained in a separate Utilities Fund for such utilities. Expenditures from such fund shall be made for the following purposes only for such utilities in the order named, viz: (a) for the payment of operating expenses, pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the City or the City Council may establish; (b) for repairs and maintenance; (c) for the payment of interest and sinking funds on bonds issued for acquisition, construction or extensions; (d) for the payment of not to exceed 5 percent of the gross receipts from such utilities to the General Fund of the City in payment for services rendered;

subject, however, to such limitations as may be contained in any resolution or indenture heretofore adopted providing for the issuance of revenue bonds for the acquisition, construction or improvement of such utilities, which bonds are now outstanding or may hereafter be issued under such existing resolution or indenture; (e) for extensions and improvements; (f) for the establishment of a sinking fund within the Utilities Fund for the replacement of utilities property in the minimum amount of \$2,500,000.

The City Council shall cause records to be kept of the receipts and expenditures of each utility and of credits and debits of each utility in the aforementioned Utilities Fund. The City Council may, however, order expenditures from the Utilities Fund for any utility even though that utility has no credit in the Utilities Fund, provided only that the balance in the Utilities Fund is greater than the proposed expenditure.

Certified to be a true copy by William A. Gissler, Mayor and A. S. Belick, City Clerk.

Date of Special Municipal Election: November 4, 1980.

Charter Chapter 37—City of San Diego

Amendment to the Charter of the City of San Diego

[Filed with the Secretary of State December 31, 1980]

Section 11.1 of Article III of the Charter is amended to read as follows:
Section 11.1. LEGISLATIVE POWER—NONDELEGABLE.

The same prohibition against delegation of the legislative power which is imposed on the State Legislature by Article XI, Section 11a of the Constitution of the State of California shall apply to the City Council of The City of San Diego, so that its members shall not delegate legislative power or responsibility which they were elected to exercise in the adoption of any ordinance or resolution which raises or spends public monies, including but not limited to the City's annual budget ordinance or any part thereof, and the annual ordinance setting compensation for City employees, or any ordinance or resolution setting public policy.

In setting compensation for City employees, the City Council shall adopt an ordinance no later than May 30 of each year after considering all relevant evidence including but not limited to the needs of the citizens of the City of San Diego for municipal services and the ability of the citizens to pay for those services; provided, however, that the City Council shall give priority in the funding of municipal services to the need of the citizens for police protection.

The prohibition imposed by this section against unlawful delegation of the legislative responsibility to set compensation for city employees shall extend to any scheme or formula which seeks to fix the compensation of City of San Diego employees at the level of compensation paid to employees of any other public agency whose governing board is not elected

by and not accountable to the people of the City of San Diego.

Certified to be a true copy by Pete Wilson, Mayor and Charles G. Abdelnour, City Clerk.

Date of Special Municipal Election: November 4, 1980.

Charter Chapter 38—County of San Diego

Amendments to the Charter of the County of San Diego

[Filed with the Secretary of State December 31, 1980]

Section 401.3 of Article IV is amended to read:

Section 401.3: A candidate who receives a majority of all votes in the primary election is elected. When no candidate is so elected, the two candidates who receive the highest number of votes in the primary are the candidates in the general election, and the one who receives the higher number of votes in the general election is elected. In the event there are no more than two candidates for one office, the office shall be voted upon at the primary election.

Sections 701 and 702 of the Table of Contents are repealed and Articles IX and X of the Table of Contents are amended as follows:

ARTICLE IX—PERSONNEL SYSTEM

Section 900—Personnel System

Section 901—Employment Policy

Section 902—Administration

Section 903—Civil Service Commission

Section 904—General Duties of the Civil Service Commission

Section 905—Hearing Officers of the Commission

Section 906—Staff of the Commission

Section 907—Investigative Powers of the Commission

Section 908—Civil Service

Section 909—Appointment and Dismissal of Employees

Section 910—Rules for the Civil Service

Section 911—Preferential Credits

Section 912—Citizenship Requirements for Employment

Section 913—Reimbursement for Travel

Section 914—Regulation of Political Activities

Section 915—Prohibition of Nepotism

Section 916—Independent Contractors

Section 917—Labor on Public Works

Section 918—Continuance in Office

ARTICLE X—GENERAL PROVISIONS

Section 1000—Conflict of Interest

Section 1001—Prohibition of Bribes

Section 1002—Violation of Charter

Section 1003—Severance Clause

Section 1004—Operative Date

Section 1005—Operative Date

Section 501.1 of Article V is amended to read:

Section 501.1: The Board shall establish, by resolution or ordinance, the number of nonelective employees and designate all positions as either regular or temporary.

Section 501.2 of Article V is amended to read:

Section 501.2: The Board shall, at least annually, adopt a resolution or ordinance to establish the compensation of all officers and employees, providing uniform compensation for like services. When establishing compensation, the Board shall consider, among other factors, the following:

- (a) the prevailing rate of compensation paid and fringe benefits provided by private employers in the County and by other public employers in the State for similar quality or quantity of service;
- (b) the fringe benefits provided by the County; and
- (c) the revenues available to the County for payment of compensation.

Section 501.6 is added to Article V to read:

Section 501.6: The Board shall establish, by resolution or ordinance, rules for the Civil Service in accordance with this Charter.

Section 501.7 is added to Article V to read:

Section 501.7: The Board shall establish rules which provide for the administration of employer-employee relations and establish a neutral appellate authority regarding unfair labor practices and representation cases. The rules shall not be in conflict with state law.

Section 501.8 is added to Article V to read:

Section 501.8: The Board, or such persons as the Board shall specify, shall represent the County in employer-employee relations and salary matters.

Section 701 of Article VII is repealed.

Section 702 of Article VII is repealed.

Section 702.1 of Article VII is repealed.

Section 703.9 is added to Article VII to read:

Section 703.9: The Chief Administrative Officer is responsible for administering the personnel system in accordance with this Charter, the Civil Service Rules and the policy direction of the Board.

Article IX is repealed.

Article IX is added to read:

ARTICLE IX PERSONNEL SYSTEM

Section 900: Personnel System. The County shall establish, implement, and maintain a personnel system which will assure:

- (a) recruitment, selection, promotion and retention of employees on the basis of merit; and
- (b) the development of a County career service.

Section 901: Employment Policy. The County shall hire, transfer, promote, compensate, discipline and dismiss individuals on the basis of job-related qualifications, merit, and equal opportunity without regard to age, color, creed, disability, national origin, political affiliation, race, reli-

gion, sex, or any other non-job-related factor.

Section 902: Administration. The Personnel Director is responsible for the administration of the personnel department in accordance with this Charter and the Rules of the Civil Service.

Section 902.1: The Personnel Director, who is in the Executive Service, is appointed by the Chief Administrative Officer.

Section 903: Civil Service Commission. The Civil Service Commission consists of five persons appointed by the Board. Each Commissioner shall be an elector of the County.

Section 903.1: Each Commissioner serves a six-year term beginning and ending at noon on the first Monday after January first and continues to serve until the appointment and qualification of a successor. No more than one Commissioner's term may expire in the same year. A Commissioner is limited to one full six-year term.

Section 903.2: A Commissioner may be removed by a majority vote of the Board if the Board serves the Commissioner a written statement containing the reasons for removal, records the statement in its minutes, and allows the Commissioner the opportunity to be heard publicly.

Section 903.3: A vacancy on the Commission shall be filled within forty-five days of its occurrence by the Board for the unexpired term.

Section 904: General Duties of the Civil Service Commission. The Commission is responsible for protecting the merit basis of the personnel system through its appellate authority, investigative powers, review of Civil Service Rules and contract review function.

Section 904.1: The Commission is the administrative appeals body for the County in personnel matters authorized by this Charter. Upon appeal, the Commission may affirm, revoke or modify any disciplinary order, and may make any appropriate orders in connection with appeals under its jurisdiction. The Commission's decisions shall be final, and shall be followed by the County unless overturned by the courts on appeal.

Section 904.2: The Commission's appellate authority includes appeals from actions involving:

- (a) discipline of classified employees with permanent status;
- (b) the selection process;
- (c) complaints of discrimination in personnel matters based on non-job-related factors.
- (d) charges filed by a citizen against a person in the classified service, in accordance with the Civil Service Rules; and
- (e) such other matters as are provided for in the Civil Service Rules.

Section 904.3: The Commission reviews proposed Rules for the Civil Service pursuant to Section 910 of the Charter.

Section 904.4: The Commission shall establish written procedures to govern the conduct of its duties. The procedures of the Commission shall provide for regular meetings to be held at least monthly, the election of a president and the keeping of minutes of its proceedings. The Commission shall annually submit to the Board a budget for its usual and necessary operating expenses.

Section 904.5: The Commission may advise the Personnel Director, the Chief Administrative Officer and the Board on matters concerning per-

sonnel policies and the administration of the personnel system.

Section 905: Hearing Officers of the Commission. The Commission may appoint one of its members, a hearing officer or board to hear appeals and submit findings and a proposed decision to the Commission for its review and action. The appointment of a hearing officer or board is subject to the budgetary and personnel constraints established by the Board.

Section 906: Staff of the Commission. The Commission shall employ an Executive Secretary who shall be in the Unclassified Service. The Commission shall employ such other staff as necessary to perform its responsibilities. Such other staff shall be in the Classified Service, and shall be subject to the budgetary and personnel constraints established by the Board. The Commission's staff has no authority to administer personnel services and programs.

Section 907: Investigative Powers of the Commission. For purposes of protecting the merit basis of the personnel system, the Commission has the power to investigate, either as a group or as individuals, the conduct and operations of all departments, to administer oaths, and to subpoena witnesses and materials.

Section 907.1: In connection with an investigation, the Commission may make any necessary orders, including, but not limited to, back pay and classification adjustments, to carry out the provisions of the Charter and the Civil Service Rules.

Section 907.2: The Commission has the power to take legal action, as provided by general law for boards of supervisors, against a person who, by failing to comply with its subpoena or by refusing to testify, shall be considered in contempt.

Section 908: Civil Service. The County Civil Service is divided into the Classified, Unclassified, and Executive Services.

Section 908.1: The Classified Service consists of all offices and positions not included by this Charter in the Unclassified Service or the Executive Service.

Section 908.2: The Unclassified Service consists of:

(a) elective officers, their chief deputies, and special assistants employed by elective officers;

(b) the Assistant District Attorney, the Chief Deputy District Attorney, and not more than three special assistants designated by the District Attorney;

(c) the Under-Sheriff and not more than three special assistants or deputies designated by the Sheriff;

(d) members of appointed boards and commissions;

(e) an Executive Secretary employed by the Civil Service Commission;

(f) the superintendent of schools;

(g) persons serving without compensation;

(h) officers and employees whose appointments must be approved by the State;

(i) students engaged in regularly established, accredited training programs;

(j) persons employed as guards or keepers in law enforcement agencies, including the offices of Sheriff, Marshal and Probation Officer, for less

than ninety-one working days during a fiscal year;

(k) deputy registrars of voters employed only to register electors and election workers;

(l) persons employed seasonally as guards, custodians, rangers, or caretakers in County parks;

(m) persons employed for temporary expert professional services in positions that have been exempted from the Classified Service by the Personnel Director for a specified period; and

(n) persons employed for less than ninety-one working days during a fiscal year on a part-time or intermittent basis in positions exempted from the Classified Service by the Personnel Director.

Section 908.3: The Executive Service consists of each appointive County officer and that officer's principal assistant, or principal assistants, except:

(a) officers designated as in the Unclassified Service;

(b) the County Counsel, the Auditor and Controller and their principal assistants who shall be in the Classified Service;

(c) appointed officers and their principal assistants who held their offices on January 20, 1969, who shall be in the Classified Service.

Section 909: Appointment and Dismissal of Employees. Officers shall have the power to appoint employees the Board may authorize.

Section 909.1: Persons in the Classified Service appointed to regular positions from eligible lists, who have successfully completed the probationary period for that position, shall only be removed for cause and in accordance with the Civil Service Rules. All other persons in the Classified Service serve and are removed from service at the pleasure of their appointing authorities.

Section 909.2: Appointments to the Executive Service are made in the same manner as appointments to the Classified Service. Officers in the Executive Service serve at the pleasure of their appointing authorities and may be removed, upon recommendation of the Chief Administrative Officer, by a majority vote of the Board. Principal assistants in the Executive Service may be removed, with the approval of the Chief Administrative Officer, by their appointing authorities. However, a person to be removed from the Executive Service has the right not only to request and receive a public hearing before the Board, the procedures for which shall be established by resolution or ordinance of the Board, but also, to learn the grounds for removal and to present evidence at that hearing. The Board shall adopt procedures governing the discipline, other than removal, for persons in the Executive Service.

Section 909.3: Persons in the Unclassified Service serve and are removed from service at the pleasure of their appointing authorities. The Civil Service Rules shall not apply to the appointment of persons in the Unclassified Service.

Section 910: Rules for the Civil Service. The Civil Service Rules, which have the force and effect of law, are implemented by the Personnel Director under the administrative jurisdiction of the Chief Administrative Officer. The Commission reviews proposed Rules and amendments and, after a public hearing, make any modifications it deems appropriate, and

transmits the Rules and amendments to the Board. The Board adopts or rejects, but may not modify, the Rules and amendments following review by the Commission in accordance with the procedures established pursuant to Section 910.1(m).

Section 910.1: The Rules for the Classified and Executive Services shall include provisions for:

- (a) determining the classification of all positions according to duties and responsibilities;
- (b) the development of a County career service;
- (c) appointments, not exceeding a period of one year, to temporary positions;
- (d) open and promotional competitive examinations for classified employees to measure the relative fitness of applicants; and the creation of eligible lists of persons qualified through examination and their certification therefrom;
- (e) a process for the temporary suspension of competitive examinations where impractical for positions requiring extraordinary scientific, professional or expert qualifications;
- (f) the making of provisional appointments in the absence of eligible lists. Provisional appointments shall not exceed six months and may not be renewed;
- (g) probationary periods of six months for classified employees appointed to regular positions from eligible lists. Such probationary periods may be extended to no more than eighteen months for Deputy Sheriffs or no more than twelve months for all other classified employees, upon approval of the Personal Director. An appointing authority has the right to dismiss a person in the Classified Service during the probationary period if the appointing authority considers the employee unsatisfactory for or incompetent to fulfill the duties of the position. The appointing authority of an employee dismissed during probation shall give the dismissed employee a statement of the reasons for dismissal and shall file such statement with the Personnel Director; the dismissed employee shall have no right of appeal to the Commission;
- (h) the regulation and accumulation of vacation and other leaves of absence for persons in the Classified and Executive Services; the Board shall provide similar benefits for persons other than elective officers in the Unclassified Service, depending upon the type of duties performed;
- (i) procedures for the transfer of employees within the County service;
- (j) performance appraisals;
- (k) the disciplining of employees in the Classified Service for cause and their rights of appeal;
- (l) the appeal processes to be conducted under the jurisdiction of the Commission; and
- (m) the review of proposed Rules and amendments to the Rules.

Section 911: Preferential Credits. In open examinations the Personnel Director shall, in addition to all other credits, give a credit of five percent of the maximum rating prescribed for the examination to successful examinees who have served during a war (as war is now defined in Section 205 of the State's Revenue and Taxation Code or as it may be

defined if that Section is amended) in the military or naval service of the United States, including all uniformed auxiliaries authorized by Congress, and who have subsequently been separated, placed on inactive duty, or retired under honorable conditions without full pensions. However, the Personnel Director gives the credit to veterans only once, only upon their first employment or reemployment after disengagement from service, and only during the eight year period following their disengagement.

Section 911.1: The surviving spouse of a person who died in the service specified above or who cannot engage in a remunerative occupation because of a disability connected with the service specified above receives a credit of five percent on every open examination taken and passed.

Section 911.2: A person who has been separated, placed on inactive duty, or retired under honorable conditions from the service specified above and who has a service-connected disability, as recognized under Federal law, receives a five percent credit that is separate and distinct from the one authorized by Section 911 on every open examination taken and passed.

Section 912: Citizenship Requirements for Employment. The Board may establish, by resolution or ordinance, whatever citizenship requirements are legal for employment in public service.

Section 913: Reimbursement for Travel. A person who is required to travel in the performance of official County duty shall receive, in addition to regular compensation, reimbursement for travel expenses.

Section 913.1: The Board shall establish, by resolution or ordinance, the types of expenditures which can be reimbursed and the manner and rates of reimbursement, which shall be uniform for all officers and employees and elected officers.

Section 914: Regulation of Political Activities. Officers and employees shall not engage in political activities during hours when they have been directed to perform assigned duties.

Section 915: Prohibition of Nepotism. No person related by blood or marriage to an officer or department head may be employed in the department of that officer or department head. This section shall not apply to anyone appointed prior to the operative date of this section.

Section 916: Independent Contractors. Nothing in this Article prevents the County from employing an independent contractor when the Civil Service Commission or one of its authorized members, upon recommendation of the Board or Purchasing Agent, determines that services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified or Executive Service.

Section 917: Labor on Public Works. Labor on public works in this County is governed by general law.

Section 918: Continuance in Office. Nothing in this article affects the present term or the tenure of office of any Commissioner, or the tenure of office of the Personnel Director, holding office upon the effective date of this Article, except that the Personnel Director shall be in the Executive Service and have the appointing authority designated in Section 902.1.

Section 1000 of Article X is amended to read:

Section 1000: Conflict of Interest. Attorneys, agents, officers, majority stockholders, and employees of firms, associations and corporations doing business under franchises granted by the County or contracts made with the County; persons doing that business; and persons with a financial interest in those franchises, or contracts are ineligible to hold County office if the holding of such office would empower the incumbent to enter into or approve any such franchise or contract.

Section 1002: Violation of Charter. Unless otherwise specified in this Charter, a violation of a provision of this Charter constitutes misconduct in office and may be grounds for removal from office as provided by general law.

Section 1004 is added to Article X to read:

Section 1004: Operative Date. This addition of sections 501.6, 501.7, 501.8 and 703.9; the repeal of section 701, 702, and 702.1; the repeal of Article IX; the addition of Article IX; and the amendment of sections 501.1, 501.2, 1000 and 1002 shall be operative on July 1, 1981, if theretofore filed with the Secretary of State according to general law after ratification by the voters at the general election on November 4, 1980.

Certified to be a true copy by Roger Hedgecock, Chairman of the Board of Supervisors and Porter D. Cremans, Clerk of the Board of Supervisors.
Date of General Election: November 4, 1980.

GOVERNOR'S REORGANIZATION
PLAN NO. 3 of 1979

**GOVERNOR'S REORGANIZATION
PLAN NO. 3 OF 1979**

Received by Assembly January 28, 1980; received by Senate January 25, 1980.

Takes effect on March 26, 1980; by operation of Government Code Section 12080.5.

January 25, 1980

REFERRED TO COMMITTEE ON CRIMINAL JUSTICE

STATUTORY PROVISIONS

An act to amend Sections 11550, 12800, 12803, 12804, 12806, 12808, 12809, 12810 and 12855 of, and to add Sections 12811, 12811.1, and 12811.2 to, the Government Code, to amend Sections 3510, 5000, 6024, 6025, and 6028.2 of the Penal Code, to amend Sections 1710, 1716, 3150, and 3300 of the Welfare and Institutions Code, relating to the reorganization of the executive branch of the California state government.

LEGISLATIVE COUNSEL'S DIGEST

Governor's Reorganization Plan No. 3 of 1979:

(Crim.J.)

State Government reorganization: Youth and Adult
Correctional Agency

Chapter 1252 of the Statutes of 1977 reorganized the Health and Welfare Agency, expressed legislative intent that the Governor prepare and submit to the Legislature by January 31, 1979, an executive reorganization plan which would remove the Department of Corrections and the then Youth Authority from that agency, operative on or before July 1, 1979, and removed the department and the authority from that agency on July 1, 1979. The department consists of the Director of Corrections, the now Board of Prison Terms, and

the Correctional Industries Commission. Chapter 255 of the Statutes of 1979 renamed the Community Release Board, the Board of Prison Terms. Chapter 860 of the Statutes of 1979, reorganized the Youth Authority into the Department of the Youth Authority and the Youthful Offender Parole Board (then the Youth Authority Board). Chapter 259 of the Statutes of 1979, the 1979–80 Budget Act, provided that no funds appropriated thereby or by any other statute may be expended by the agency or either department to establish or maintain an agency-department relationship between the agency and either or both departments.

Under existing statutes: neither the Board of Corrections, the Institutional Review Board, nor the Narcotic Addict Evaluation Board have been placed within any of the existing named agencies of the executive branch of state government; and the Secretary of the Health and Welfare Agency is the Chairman of the Board of Corrections.

This plan would: create the Youth and Adult Correctional Agency; consolidate therein, the following existing state governmental entities: the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youthful Offender Parole Board, the Board of Corrections, the Correctional Industries Commission, the Institutional Review Board, and the Narcotic Addict Evaluation Authority; make the Secretary of the Youth and Adult Correctional Agency the Chairman of the Board of Corrections; and make various related, conforming, technical, updating, and corrective changes.

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

- 1 SECTION 1. Section 11550 of the Government Code is
- 2 amended to read:
- 3 11550. An annual salary of thirty-five thousand dollars
- 4 (\$35,000) shall be paid to each of the following:
- 5 (a) Director of Finance
- 6 (b) Secretary of Business and Transportation Agency
- 7 (c) Secretary of Resources Agency
- 8 (d) Secretary of Health and Welfare Agency
- 9 (e) Secretary of Agriculture and Services Agency

1 (f) *Secretary of Youth and Adult Correctional*
2 *Agency* .

3 SEC. 2. Section 12800 of the Government Code is
4 amended to read:

5 12800. There are in the state government the following
6 agencies: State and Consumer Services; Business and
7 Transportation; Health and Welfare; ~~and~~ Resources ; *and*
8 *Youth and Adult Correctional* .

9 Whenever the term "Agriculture and Services
10 Agency" appears in any law, it means the "State and
11 Consumer Services Agency," and whenever the term
12 "Secretary of Agriculture and Services Agency" appears
13 in any law, it means the "Secretary of State and
14 Consumer Services Agency."

15 SEC. 3. Section 12803 of the Government Code is
16 amended to read:

17 12803. The Health and Welfare Agency consists of the
18 following departments: Health Services; Mental Health;
19 Developmental Services; Social Services; Alcohol and
20 Drug Abuse; Aging; Employment Development; *and*
21 Rehabilitation ; ~~the Youth Authority; and Corrections~~ .

22 The agency also includes the Office of Statewide
23 Health Planning and Development and the State Council
24 on Developmental Disabilities. ~~Effective July 1, 1979, the~~
25 ~~Departments of Corrections and the Youth Authority~~
26 ~~shall no longer be included within the Health and~~
27 ~~Welfare Agency.~~

28 SEC. 4. Section 12804 of the Government Code is
29 amended to read:

30 12804. The Agriculture and Services Agency is hereby
31 renamed the State and Consumer Services Agency.

32 The State and Consumer Services Agency consists of
33 the following: the Department of General Services; the
34 Department of Veterans Affairs; the Department of
35 Consumer Affairs; the Franchise Tax Board; the Public
36 Employees' Retirement System; the State Fire Marshal;
37 and the State Teachers' Retirement System.

38 ~~The Department of Corrections and the Department~~
39 ~~of the Youth Authority are hereby transferred from the~~
40 ~~Youth and Adult Corrections Agency to the Health and~~

1 ~~Welfare Agency.~~

2 SEC. 5. Section 12806 of the Government Code is
3 amended to read:

4 12806. (a) The Health and Welfare Agency succeeds to
5 and is vested with all the duties, powers, purposes,
6 responsibilities, and jurisdiction vested in the Human
7 Relations Agency in respect to the various agencies in the
8 Human Relations Agency listed in Section 12803 on the
9 effective date of the 1972 amendment of this section, with
10 the exception of the Office of Atomic Energy
11 Development and Radiation Protection, which, by
12 Section 12803, is renamed the Office of Nuclear Energy
13 and transferred to the Resources Agency and the
14 California Commission on Aging (formerly the Citizens'
15 Advisory Commission on Aging).

16 The Secretary of the Health and Welfare Agency
17 succeeds to and is vested with all the duties, powers,
18 purposes, responsibilities, and jurisdiction vested in the
19 Administrator of the Human Relations Agency in respect
20 to the various agencies in the Human Relations Agency
21 listed in Section 12803 on the effective date of the 1972
22 amendment of this section, with the exceptions of the
23 Office of Atomic Energy Development and Radiation
24 Protection and the California Commission on Aging.

25 ~~(b) The Health and Welfare Agency succeeds to and~~
26 ~~is vested with all the duties, powers, purposes,~~
27 ~~responsibilities, and jurisdiction vested in the Youth and~~
28 ~~Adult Corrections Agency in respect to the various~~
29 ~~agencies in the Youth and Adult Corrections Agency~~
30 ~~listed in Section 12804 on the effective date of the 1972~~
31 ~~amendment of this section, with the exception of the~~
32 ~~Board of Corrections.~~

33 The Secretary of the Health and Welfare Agency
34 succeeds to and is vested with all the duties, powers,
35 purposes, responsibilities, and jurisdiction vested in the
36 Administrator of the Youth and Adult Corrections
37 Agency in respect to the various agencies in the Youth
38 and Adult Corrections Agency listed in Section 12804 on
39 the effective date of the 1972 amendment of this section,
40 with the exception of the Board of Corrections.

1 ~~(e)~~
2 (b) Any reference in any law to the Human Relations
3 Agency or to the administrator of that agency with
4 respect to any agency listed in Section 12803 on the
5 effective date of the 1972 amendment of this section,
6 except the Office of the Atomic Energy Development
7 and Radiation Protection or the California Commission
8 on Aging, shall be considered a reference to the Health
9 and Welfare Agency or to the Secretary of the Health and
10 Welfare Agency, as the case may be, unless the context
11 otherwise requires.

12 Any reference in any law to the Youth and Adult
13 Corrections Agency or to the administrator of that
14 agency with respect to any agency listed in Section 12804
15 on the effective date of the 1972 amendment of this
16 section, except the Board of Corrections, shall be
17 considered a reference to the Health and Welfare
18 Agency or to the Secretary of the Health and Welfare
19 Agency, as the case may be, unless the context otherwise
20 requires.

21 SEC. 6. Section 12808 of the Government Code is
22 amended to read:

23 12808. The Health and Welfare Agency and the
24 Resources Agency may use the unexpended balances of
25 funds available for use by the Human Relations Agency
26 or the Youth and Adult Corrections Agency in
27 connection with the functions of the Human Relations
28 Agency and the Youth and Adult Corrections Agency
29 that are transferred to or vested in the Health and
30 Welfare Agency or the Resources Agency by Section
31 12803, ~~12804~~, 12806, or 12807, as the case may be. Such
32 funds shall be used by the Health and Welfare Agency
33 and the Resources Agency only for the purposes for
34 which they were originally appropriated or otherwise
35 made available to the Human Relations Agency or the
36 Youth and Adult Corrections Agency .

37 SEC. 7. Section 12809 of the Government Code is
38 amended to read:

39 12809. All officers and employees of the Human
40 Relations Agency and the Youth and Adult Corrections

1 ~~Agency~~ who, on the effective date of the 1972
2 amendment of this section, are serving in the state civil
3 service, other than as temporary employees, and engaged
4 in the performance of a function transferred to or vested
5 in the Health and Welfare Agency or the Resources
6 Agency by Section 12803, ~~12804~~, 12806, or 12807 shall be
7 transferred to the Health and Welfare Agency or the
8 Resources Agency, as the case may be. The status,
9 positions, and rights of such persons shall not be affected
10 by the transfer, and shall be retained by them as officers
11 and employees of the Health and Welfare Agency or the
12 Resources Agency pursuant to the State Civil Service Act,
13 except as to positions exempt from civil service in the
14 Human Relations Agency ~~or the Youth and Adult~~
15 ~~Corrections Agency~~ .

16 SEC. 8. Section 12810 of the Government Code is
17 amended to read:

18 12810. The Health and Welfare Agency and the
19 Resources Agency shall have the possession and control
20 of all records, papers, offices, equipment, supplies,
21 moneys, funds, appropriations, land and other property,
22 real or personal, held for the benefit or use of the Human
23 Relations Agency ~~or the Youth and Adult Corrections~~
24 ~~Agency~~ in the performance of the duties, powers,
25 purposes, responsibilities, and jurisdiction of the Human
26 Relations Agency ~~or the Youth and Adult Corrections~~
27 ~~Agency~~ that are transferred to or vested in the Health
28 and Welfare Agency or the Resources Agency by Section
29 12803, ~~12804~~, 12806, or 12807.

30 SEC. 9. Section 12811 is added to the Government
31 Code, to read:

32 12811. The Youth and Adult Correctional Agency
33 consists of the Department of Corrections, the
34 Department of the Youth Authority, the Board of Prison
35 Terms, the Youthful Offender Parole Board, the Board of
36 Corrections, the Correctional Industries Commission, the
37 Institutional Review Board, and the Narcotic Addict
38 Evaluation Authority.

39 SEC. 10. Section 12811.1 is added to the Government
40 Code, to read:

1 12811.1. The Governor, upon recommendation of the
2 Secretary of the Youth and Adult Correctional Agency,
3 may appoint not to exceed two deputies for the secretary.

4 SEC. 11. Section 12811.2 is added to the Government
5 Code, to read:

6 12811.2. Any reference in any law in effect on June 30,
7 1979, to the Health and Welfare Agency or to the
8 secretary of that agency, with respect to the Department
9 of Corrections or the Department of the Youth Authority
10 shall be considered a reference to the Youth and Adult
11 Correctional Agency or to the Secretary of the Youth and
12 Adult Correctional Agency, as the case may be, unless the
13 context otherwise requires.

14 SEC. 12. Section 12855 of the Government Code is
15 amended to read:

16 12855. For the purpose of this chapter, “agency” means
17 the State and Consumer Services Agency, the Health and
18 Welfare Agency, ~~or~~ the Resources Agency, *or the Youth
19 and Adult Correctional Agency*, and “secretary” means
20 the secretary of any such agency. The general powers of
21 the Business and Transportation Agency and its secretary
22 are those specified in Part 4.5 (commencing with Section
23 13975) of Division 3 of Title 2 of this code.

24 SEC. 13. Section 3510 of the Penal Code is amended to
25 read:

26 3510. There is ~~hereby created~~ *in the Youth and Adult
27 Correctional Agency*, the Institutional Review Board
28 which shall be composed of at least seven members
29 representing persons of diverse racial and cultural
30 backgrounds.

31 SEC. 14. Section 5000 of the Penal Code is amended to
32 read:

33 5000. There is in the ~~Health and Welfare~~ *Youth and
34 Adult Correctional Agency*, the Department of
35 Corrections.

36 SEC. 15. Section 6024 of the Penal Code is amended to
37 read:

38 6024. There is in the ~~state government~~ *Youth and Adult
39 Correctional Agency*, a Board of Corrections.

40 SEC. 16. Section 6025 of the Penal Code is amended to

1 read:

2 6025. (a) The Board of Corrections shall be composed
3 of 11 members, one of whom shall be the Secretary of the
4 ~~Health and Welfare~~ *Youth and Adult Correctional*
5 Agency who shall be designated as the chairman, one of
6 whom shall be the Director of Corrections, one of whom
7 shall be the Director of the Youth Authority, and eight of
8 whom shall be appointed by the Governor after
9 consultation with, and with the advice of, the Secretary
10 of the ~~Health and Welfare~~ *Youth and Adult Correctional*
11 Agency, and with the advice and consent of the Senate.
12 There shall be one representative from each of the
13 following categories:

14 (1) A member of a statewide parole board of this state.

15 (2) A county sheriff.

16 (3) A county supervisor or county administrative
17 officer.

18 (4) A chief probation officer.

19 (5) An employee of a state correctional facility who is
20 involved in either custody or care and treatment.

21 (6) An administrator of a local community-based
22 correctional program.

23 (7) Two public members.

24 (b) Of the members first appointed by the Governor,
25 two shall be appointed for a term of two years, three for
26 a term of three years, and three for a term of four years.
27 The length of the original term to be served by each such
28 member first appointed shall be determined by lot. Their
29 successors shall serve for a term of three years and until
30 appointment and qualification of their successors, each
31 term to commence on the expiration date of the term of
32 the predecessor. The terms of the two persons last
33 appointed as qualified persons, by the Governor with the
34 advice and consent of the Senate, under the provisions of
35 this section as it read prior to January 1, 1977, shall expire
36 on that date.

37 (c) The board shall select a vice chairman from among
38 its members. Six members of the board shall constitute a
39 quorum.

40 (d) When the Board of Corrections is hearing charges

1 against any member, the individual concerned shall not
2 sit as a member of the board for the period of hearing of
3 charges and the determination of recommendations to
4 the Governor.

5 (e) If any appointed member is not in attendance for
6 three consecutive meetings the board shall recommend
7 to the Governor that the member be removed and the
8 Governor shall make a new appointment, with the advice
9 and consent of the Senate, for the remainder of the term.

10 SEC. 17. Section 6028.2 of the Penal Code is amended
11 to read:

12 6028.2. The Secretary of the ~~Human Relations~~ *Youth*
13 *and Adult Correctional* Agency may furnish for the use of
14 any such commission such facilities, supplies, and
15 personnel as may be available therefor.

16 SEC. 18. Section 1710 of the Welfare and Institutions
17 Code is amended to read:

18 1710. There is *in the Youth and Adult Correctional*
19 *Agency*, a Department of the Youth Authority.

20 SEC. 19. Section 1716 of the Welfare and Institutions
21 Code is amended to read:

22 1716. (a) There is *in the Youth and Adult Correctional*
23 *Agency*, a Youthful Offender Parole Board, which shall
24 be composed of seven members, each of whom shall be
25 appointed by the Governor, with the advice and consent
26 of the Senate, for a term of four years and until the
27 appointment and qualification of his or her successor, and
28 who shall devote their entire time to its work.

29 (b) The individuals who were members of the Youth
30 Authority Board immediately prior to the effective date
31 of this section, other than the individual who was
32 Director of the Department of the Youth Authority and
33 Chairman of the Youth Authority Board, shall continue in
34 their respective terms of office as members of the
35 Youthful Offender Parole Board. The term of the
36 member appointed to the term commencing March 15,
37 1976 shall expire March 15, 1980. The terms of the two
38 members appointed to the terms commencing March 15,
39 1977 shall expire March 15, 1981. The terms of the two
40 members appointed to the terms commencing March 15,

1 1978 shall expire March 15, 1982. The terms of the two
2 members appointed to the terms commencing March 15,
3 1979 shall expire March 15, 1983. The members shall be
4 eligible for reappointment and shall hold office until the
5 appointment and qualification of their successors, with
6 the term of each new appointee to commence on the
7 expiration date of the term of his or her predecessor.

8 (c) All appointments to a vacancy occurring by reason
9 of any cause other than the expiration of a term shall be
10 for the unexpired term. Each member shall hold office
11 until the appointment and qualification of his or her
12 successor.

13 (d) If the Senate, in lieu of failing to confirm, finds that
14 it cannot consider all or any of the appointments to the
15 Youthful Offender Parole Board adequately because the
16 amount of legislative business and the probable duration
17 of the session does not permit, it may adopt a single house
18 resolution by a majority vote of all members elected to
19 the Senate to that effect and requesting the resubmission
20 of the unconfirmed appointment or appointments at a
21 succeeding session of the Legislature, whether regular or
22 extraordinary, convening on or after a date fixed in the
23 resolution. This resolution shall be filed immediately after
24 its adoption in the office of the Secretary of State and the
25 appointee or appointees affected shall serve subject to
26 later confirmation or rejection by the Senate.

27 SEC. 20. Section 3150 of the Welfare and Institutions
28 Code is amended to read:

29 3150. (a) There is in the ~~state government~~ *Youth and*
30 *Adult Correctional Agency*, a Narcotic Addict Evaluation
31 Authority, hereafter referred to in this article as the
32 “authority.” The authority shall be composed of four
33 members, each of whom shall be appointed by the
34 Governor, for a term of four years and until the
35 appointment and qualification of his successor. Members
36 shall be eligible for reappointment. The chairman of the
37 authority shall be designated by the Governor from time
38 to time. The terms of the members first appointed to the
39 authority shall expire as follows: one on January 15, 1965,
40 one on January 15, 1966, one on January 15, 1967, and one

1 on January 15, 1968. Their successors shall hold office for
2 terms of four years, each term to commence on the
3 expiration date of the term of the predecessor. The
4 Governor shall fill every vacancy for the balance of the
5 unexpired term. Insofar as practicable, persons
6 appointed to the authority shall have a broad background
7 in law, sociology, law enforcement, medicine, or
8 education, and shall have a deep interest in the
9 rehabilitation of narcotic addicts.

10 (b) Each member of the authority shall devote such
11 time to the duties of his office as required for
12 performance of his duties and shall be entitled to an
13 annual salary of nine thousand five hundred dollars
14 (\$9,500) for attendance upon business of the authority.
15 The chairman shall be entitled to an annual salary of ten
16 thousand dollars (\$10,000). In addition, each member
17 shall be allowed actual expenses incurred in the discharge
18 of his duties, including travel expenses.

19 (c) The authority shall maintain its headquarters at
20 the California Rehabilitation Center and shall be
21 provided with necessary office space, equipment and
22 services from funds appropriated to the California
23 Rehabilitation Center.

24 (d) The authority shall meet at the center or its
25 branches at such times as may be necessary for a full and
26 complete study of the cases of all patients who are
27 certified by the Director of Corrections to the authority
28 as having recovered from addiction or imminent danger
29 of addiction to such an extent that release in an
30 outpatient status is warranted. Other times and places of
31 meetings may also be fixed by the authority. Where the
32 authority performs its functions by meeting en banc in
33 either public or executive sessions to decide matters of
34 general policy, at least three members shall be present,
35 and no such action shall be valid unless it is concurred in
36 by a majority vote of those present. The authority may
37 meet and transact business in panels. Each authority
38 panel shall consist of at least two members of the
39 authority. Two members of the authority shall constitute
40 a quorum for the transaction of business of a panel. No

1 action shall be valid unless concurred in by a majority of
2 the members present.

3 (e) Members of other similar boards may be assigned
4 to hear cases and make recommendations to the
5 authority. Such recommendations shall be made in
6 accordance with policies established by a majority of the
7 total membership of the authority.

8 SEC. 21. Section 3300 of the Welfare and Institutions
9 Code is amended to read:

10 3300. There is hereby established an institution and
11 branches, under the jurisdiction of the Department of
12 Corrections, to be known as the California Rehabilitation
13 Center. Branches may be established in existing
14 institutions of the Department of Corrections or of the
15 Department of the Youth Authority, in halfway houses as
16 described in Section 3153, in such other facilities as may
17 be made available on the grounds of other state
18 institutions, and in city and county correctional facilities
19 where treatment facilities are available. Branches shall
20 not be established on the grounds of such other
21 institutions in any manner which will result in the
22 placement of patients of such institutions into inferior
23 facilities. Branches placed in a facility of the State
24 Department of Mental Health shall have prior approval
25 of the Director of Mental Health, and branches placed in
26 a facility of the State Department of Developmental
27 Services shall have the prior approval of the Director of
28 Developmental Services. The branches in the
29 Department of the Youth Authority shall be established
30 on order of the Secretary of the ~~Health and Welfare~~
31 *Youth and Adult Correctional* Agency and shall be
32 subject to the administrative direction of the Director of
33 the Youth Authority. Branches placed in city or county
34 facilities shall have prior approval of the legislative body
35 of the city or county.

36 Persons confined pursuant to this section in branches
37 established in city and county correctional facilities shall
38 be housed separately from the prisoners therein, and
39 shall be entitled to receive treatment substantially equal
40 to that which would be afforded such persons if confined

1 in the main institution of the California Rehabilitation
2 Center.

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GOVERNOR'S REORGANIZATION
PLAN NO. 1 of 1980

**GOVERNOR'S REORGANIZATION
PLAN NO. 1 OF 1980**

Received by Assembly May 7, 1980; received by Senate May 7, 1980.

Takes effect on July 7, 1980; by operation of Government Code Section 12080.5.

May 8, 1980

REFERRED TO COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

STATUTORY PROVISIONS

An act to amend Sections 10131.6, 10131.7, and 10177.2 of the Business and Professions Code, to amend Sections 1797 and 1797.1, of the Civil Code, to add Sections 18004.1, 18004.3, 18005.1, 18005.3, 18005.7, 18005.9, 18005.11, 18005.13, 18005.15, 18006.1, 18006.3, 18006.5, 18010.1, 18010.3, 18011.1, 18013, 18013.5, 18014, and 18065 to, and to add Chapter 4.5 (commencing with Section 18070) to Part 2 of Division 13 of, the Health and Safety Code, to amend Sections 5353, 5356, 9250, 11705, 11709, 11713, and 34500 of, to add Section 35790.5 to, and to repeal Sections 11704.5, 11704.6, 11705.2, 11705.5, 11709.5, and 11713.6 of, and to repeal Chapter 6 (commencing with Section 11950) of Division 5 of, the Vehicle Code, relating to the reorganization of the executive branch of the California state government.

LEGISLATIVE COUNSEL'S DIGEST

Governor's Reorganization Plan No. 1 of 1980

(H. & C.D.)

State government reorganization: mobilehomes

(1) Under existing law the occupational licensing and regulation of mobilehome manufacturers, manufacturer branches, manufacturer representatives, distributors,

distributor branches, transporters, dealers, and salespersons is performed by the Department of Motor Vehicles.

This bill would make the Department of Housing and Community Development responsible for these functions. It would make conforming changes in existing law for this purpose.

(2) Existing law contained in the Vehicle Code, prescribes certain requirements for dealers pertaining to mobilehome escrow accounts for sale of new or used mobilehomes.

This bill would repeal these provisions and place them in the Health and Safety Code with prescribed revisions. It would define the terms “dealer” and “retailer” for purposes of these provisions.

(3) This bill for purposes of its provisions would define various terms including “distributor,” “distributor branch,” “franchise,” “legal owner,” “manufacturer,” “new mobilehome,” “used mobilehome,” “representative,” “salesperson,” and “transporter.”

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 10131.6 of the Business and
 2 Professions Code is amended to read:
 3 10131.6. (a) Notwithstanding any other provision of
 4 law, a person licensed as a real estate broker may sell or
 5 offer to sell, buy or offer to buy, solicit prospective
 6 purchasers of, solicit or obtain listings of, or negotiate the
 7 purchase, sale, or exchange of any mobilehome if the
 8 mobilehome has been registered under the provisions of
 9 Division 3 (commencing with Section 4000) of the
 10 Vehicle Code for at least one year.
 11 (b) No real estate broker who engages in the activities
 12 authorized by this section shall maintain any place of
 13 business where two or more mobilehomes are displayed
 14 and offered for sale by such person, unless ~~said~~ *the* broker
 15 is also licensed as a ~~vehicle dealer pursuant to Chapter 4~~
 16 ~~(commencing with Section 11700) of Division 5 of the~~
 17 ~~Vehicle Code~~ *mobilehome dealer pursuant to Chapter*

1 4.5 (commencing with Section 18070) of Part 2 of
2 Division 13 of the Health and Safety Code .

3 (c) As used in this chapter, "mobilehome" means a
4 ~~vehicle designed and equipped for human habitation~~
5 ~~which is greater than (1) eight feet in width and (2) 32~~
6 ~~feet in length structure, as defined in Section 18008 of the~~
7 *Health and Safety Code* . "Mobilehome" does not
8 include a motor vehicle.

9 (d) In order to carry out the provisions of this section,
10 the commissioner shall prescribe by regulation, after
11 consultation with the Department of Motor Vehicles,
12 methods and procedures to assure compliance with
13 requirements of the Vehicle Code pertaining to
14 mobilehome registration, collection of sales and use taxes,
15 and transaction documentation.

16 SEC. 2. Section 10131.7 of the Business and Professions
17 Code is amended to read:

18 10131.7. It is unlawful for any real real estate licensee
19 acting under authority of Section 10131.6:

20 (a) To advertise or offer for sale in any manner any
21 mobilehome unless it is either in place on a lot rented or
22 leased for human habitation within an established
23 mobilehome park as defined in Section 18214 of the
24 Health and Safety Code and the advertising or offering
25 for sale is not contrary to any terms of a contract between
26 the seller of the mobilehome and the owner of the
27 mobilehome park, or is otherwise located, pursuant to a
28 local zoning ordinance or permit, on a lot where its
29 presence has been authorized or its continued presence
30 and such use would be authorized for a total and
31 uninterrupted period of at least one year.

32 (b) To fail to withdraw any advertisement of a
33 mobilehome for sale, lease or exchange within 48 hours
34 after his receipt of notice that the mobilehome is no
35 longer available for sale, lease or exchange.

36 (c) To advertise or represent a mobilehome as a new
37 mobilehome.

38 (d) To include as an added cost to the selling price of
39 a mobilehome, an amount for licensing or transfer of title
40 of the mobilehome ~~as a vehicle~~ , which amount is not due

1 to the state unless, prior to the sale, such amount has been
2 paid by the licensee to the state in order to avoid
3 penalties that would have accrued because of late
4 payment of such fees.

5 (e) To make any representation that a mobilehome is
6 capable of being operated as a ~~vehicle~~ on California
7 highways if the mobilehome does not meet all of the
8 equipment requirements applicable to ~~mobilehomes~~
9 *vehicles* of Division 12 (commencing with Section 24000)
10 of the Vehicle Code, or to fail to disclose any material fact
11 respecting such equipment requirements.

12 (f) To advertise or otherwise represent, or knowingly
13 to allow to be advertised or represented on his behalf or
14 at his place of business, that no downpayment is required
15 in connection with the sale of a mobilehome when
16 downpayment is in fact, required and the buyer is
17 advised or induced to finance such downpayment by a
18 loan in addition to any other loan financing the
19 remainder of the purchase price of the mobilehome.

20 (g) To fail or neglect properly to cause the
21 endorsement, dating and delivery (or fail to endorse,
22 date and deliver) of the certificate of ownership of ~~the a~~
23 *mobilehome, not installed pursuant to Section 18551 of*
24 *the Health and Safety Code* and, when having possession,
25 to fail to deliver the registration card to a transferee who
26 is lawfully entitled to a transfer of registration. Except
27 when the certificate of ownership is demanded in writing
28 by a purchaser the licensee shall satisfy the delivery
29 requirement of this subdivision by submitting
30 appropriate documents and fees to the Department of
31 Motor Vehicles for transfer of registration in accordance
32 with Sections 4456 and 5901 of the Vehicle Code and rules
33 and regulations promulgated thereunder.

34 SEC. 3. Section 10177.2 of the Business and Professions
35 Code is amended to read:

36 10177.2. The commissioner may, upon his own motion,
37 and shall, upon the verified complaint in writing of any
38 person, investigate the actions of any licensee, and he
39 may suspend or revoke a real estate license at any time
40 where the licensee in performing or attempting to

1 perform any of the acts within the scope of Section
2 10131.6 has been guilty of any of the following acts:

3 (a) Has used a false or fictitious name, knowingly
4 made any false statement, or knowingly concealed any
5 material fact, in any application for the registration of a
6 mobilehome ~~as a vehicle~~, or otherwise committed a
7 fraud in such application.

8 (b) Failed to provide for the delivery of a properly
9 endorsed certificate of ownership of a mobilehome, *not*
10 *installed pursuant to Section 18551 of the Health and*
11 *Safety Code*, from the seller to the buyer thereof.

12 (c) Has knowingly participated in the purchase, sale,
13 or other acquisition or disposal of a stolen mobilehome.

14 (d) Has violated one or more of the terms and
15 provisions of Division 3 (commencing with Section 4000),
16 or Division 4 (commencing with Section 10500) of the
17 Vehicle Code, or Part 5 (commencing with Section
18 10701) of Division 2 of the Revenue and Taxation Code,
19 or Chapter 2b (commencing with Section 2981) of Title
20 14 of Part 4 of Division 3 of the Civil Code, or a rule or
21 regulation adopted pursuant thereto or pursuant to
22 Section 1651 of the Vehicle Code.

23 (e) Has submitted a check, draft, or money order to
24 the Department of Motor Vehicles for any obligation or
25 fee due the state and it is thereafter dishonored or
26 refused payment upon presentation.

27 SEC. 4. Section 1797 of the Civil Code is amended to
28 read:

29 1797. After the effective date of this chapter all new
30 mobilehomes sold by a dealer licensed by the
31 Department of ~~Motor Vehicles~~ *Housing and Community*
32 *Development* to a buyer shall be covered by the
33 warranty set forth in this chapter.

34 SEC. 5. Section 1797.1 of the Civil Code is amended to
35 read:

36 1797.1. As used in this chapter, "mobilehome" ~~means a~~
37 ~~vehicle designed and equipped for human habitation and~~
38 ~~which may be drawn by a motor vehicle only under a~~
39 ~~permit issued pursuant to Section 35790 of the Vehicle~~
40 *Code has the same meaning as such term is defined in*

1 *Section 18008 of the Health and Safety Code* and shall
2 include in addition to the structure thereof the plumbing,
3 heating and electrical systems and all appliances and
4 other equipment installed or included therein by the
5 manufacturer or dealer.

6 SEC. 6. Section 18004.1 is added to the Health and
7 Safety Code, to read:

8 18004.1. “Dealer” means a person not otherwise
9 expressly excluded by Section 18004.3 who engages in any
10 of the following activities:

11 (a) For commission, money, or other thing of value,
12 sells, exchanges, buys, or offers for sale, negotiates or
13 attempts to negotiate, a sale or exchange of an interest in,
14 a mobilehome, or induces or attempts to induce any
15 person to buy or exchange an interest in a mobilehome
16 and, who receives or expects to receive a commission,
17 money, brokerage fees, profit, or any other thing of value,
18 from either the seller or purchaser of the mobilehome, or

19 (b) Is engaged, wholly or in part, in the business of
20 selling mobilehomes or buying or taking in trade,
21 mobilehomes for the purpose of resale, selling, or offering
22 for sale, or consigned to be sold, or otherwise dealing in
23 mobilehomes, whether or not such mobilehomes are
24 owned by such person.

25 SEC. 7. Section 18004.3 is added to the Health and
26 Safety Code, to read:

27 18004.3. The term “dealer” does not include any of the
28 following:

29 (a) Insurance companies, banks, finance companies,
30 public officials, or any other person coming into
31 possession of mobilehomes in the regular course of
32 business, who sell such mobilehomes under a contractual
33 right or obligation, or in performance of an official duty,
34 or in authority of any court of law, as long as such sale is
35 for the purpose of saving the seller from loss or pursuant
36 to the authority of a court of competent jurisdiction.

37 (b) Persons who sell or distribute mobilehomes of a
38 type subject to registration for a manufacturer to
39 mobilehome dealers licensed under this part, or who are
40 employed by manufacturers or distributors to promote

1 the sale of mobilehomes dealt in by such manufacturers
2 or distributors. However, if any such persons also sell
3 mobilehomes at retail, they shall be deemed to be
4 mobilehome dealers and are subject to the provisions of
5 this part.

6 (c) Persons regularly employed as salespersons by
7 mobilehome dealers licensed under this part while acting
8 within the scope of such employment.

9 (d) Persons exclusively engaged in the bona fide
10 business of exporting mobilehomes or of soliciting orders
11 for the sale and delivery of mobilehomes outside the
12 territorial limits of the United States, as long as no federal
13 excise tax is legally payable on any of such transactions,
14 or such tax is legally refundable on such transactions.
15 Persons not exclusively engaged in the bona fide business
16 of exporting mobilehomes, but who are engaged in the
17 business of soliciting orders for the sale and delivery of
18 mobilehomes outside the territorial limits of the United
19 States are exempt from licensure as dealers under this
20 part only if their sales of the mobilehomes produce less
21 than 10 percent of their total gross revenue from all
22 business transacted.

23 (e) Persons not engaged in the purchase or sale of
24 mobilehomes as a business, disposing of mobilehomes
25 acquired for their own use, or for use in their business
26 when the same shall have been so acquired and used in
27 good faith, and not for the purpose of avoiding the
28 provisions of this code.

29 SEC. 8. Section 18005.1 is added to the Health and
30 Safety Code, to read:

31 18005.1. "Distributor" means any person other than a
32 manufacturer who sells or distributes new mobilehomes
33 to dealers in this state and maintains representatives for
34 the purpose of contacting dealers or prospective dealers
35 in this state.

36 SEC. 9. Section 18005.3 is added to the Health and
37 Safety Code, to read:

38 18005.3. "Distributor branch" means an office
39 maintained by a distributor for the sale of new
40 mobilehomes to dealers or for directing or supervising, in

1 whole or in part, the distributor's representatives.

2 SEC. 10. Section 18005.7 is added to the Health and
3 Safety Code, to read:

4 18005.7. "Established place of business" means a place
5 actually occupied, either continuously or at regular
6 periods, by a dealer, manufacturer, manufacturer branch,
7 distributor or distributor branch, where the books and
8 records pertinent to the type of business being conducted
9 are kept.

10 The place of business shall have an office and in the
11 case of a dealer or manufacturer shall have a display or
12 manufacturing area situated on the same property where
13 the business peculiar to the type of license issued by the
14 department is or may be transacted. When a room or
15 rooms in a hotel, roominghouse, apartment house
16 building, or a part of any single- or multiple-unit dwelling
17 house are used as an office or offices of an established
18 place of business, such room or rooms shall be devoted
19 exclusively to, and occupied for, the office or offices of the
20 dealer, manufacturer, manufacturer branch, distributor
21 or distributor branch, and shall be located on the ground
22 floor, and be so constructed as to provide a direct
23 entrance into such room or rooms from the exterior of the
24 building.

25 A licensee issued an occupational license by the
26 department and conducting more than one type of
27 business from an establishment, as herein defined, shall
28 provide a clear physical division between the types of
29 business involving mobilehomes or their component
30 parts. The place of business shall be open to inspection of
31 the premises, pertinent records, and mobilehomes by any
32 department representative during business hours.

33 SEC. 11. Section 18005.9 is added to the Health and
34 Safety Code, to read:

35 18005.9. "Franchise" means a written agreement
36 between two or more persons having all of the following
37 conditions:

38 (a) A commercial relationship of definite duration or
39 continuing indefinite duration.

40 (b) The franchisee is granted the right to offer and sell

1 at retail new mobilehomes manufactured or distributed
2 by the franchiser.

3 (c) The franchisee constitutes a component of the
4 franchiser's distribution system.

5 (d) The operation of the franchisee's business is
6 substantially associated with the franchiser's trademark,
7 trade name, advertising, or other commercial symbol
8 designating the franchiser.

9 (e) The operation of a portion of the franchisee's
10 business is substantially reliant on the franchiser for a
11 continued supply of new mobilehomes, parts, and
12 accessories.

13 SEC. 12. Section 18005.11 is added to the Health and
14 Safety Code, to read:

15 18005.11. "Franchisee" means any person who,
16 pursuant to a franchise, receives new mobilehomes from
17 the franchiser and who sells such mobilehomes at retail.

18 SEC. 13. Section 18005.13 is added to the Health and
19 Safety Code, to read:

20 18005.13. "Franchiser" means any person who
21 manufacturers, assembles, or distributes new
22 mobilehomes and who grants a franchise.

23 SEC. 14. Section 18005.15 is added to the Health and
24 Safety Code, to read:

25 18005.15. "Good moral character" has the same
26 meaning as specified in Division 1.5 (commencing with
27 Section 475) of the Business and Professions Code.

28 SEC. 15. Section 18006.1 is added to the Health and
29 Safety Code, to read:

30 18006.1. "Legal owner" means a person holding a
31 security interest in a mobilehome which is subject to the
32 provisions of the Uniform Commercial Code, or the lessor
33 of a mobilehome to the state or to any county, city,
34 district, or political subdivision of the state, or to the
35 United States, under a lease, lease-sale, or rental-purchase
36 agreement which grants possession of the mobilehome to
37 the lessee for a period of 30 consecutive days or more.

38 SEC. 16. Section 18006.3 is added to the Health and
39 Safety Code, to read:

40 18006.3. "Manufacturer" means any person who

1 produces from raw materials or basic components a
2 mobilehome of a type subject to the provisions of this
3 part, or who permanently alters for purposes of retail
4 sales, rent, or lease, mobilehomes by converting the
5 mobilehomes into mobilehomes subject to this part.

6 (b) Unless a mobilehome manufacturer either grants
7 franchises to franchisees in this state, or issues
8 mobilehome warranties directly to franchisees in this
9 state or consumers in this state, such manufacturer shall
10 have an established place of business or a representative
11 in this state.

12 SEC. 17. Section 18006.5 is added to the Health and
13 Safety Code, to read:

14 18006.5. "Manufacturer branch" means an office
15 maintained by a manufacturer for the sale of new
16 mobilehomes to dealers or for directing or supervising in
17 whole or in part the manufacturer's representatives.

18 SEC. 18. Section 18010.1 is added to the Health and
19 Safety Code, to read:

20 18010.1. "New mobilehome" means a mobilehome that
21 has never been sold, or registered with the Department
22 of Motor Vehicles, or registered with the appropriate
23 agency of authority, or occupied as a residence in this or
24 any other state, District of Columbia, territory or
25 possession of the United States or foreign state, province
26 or country. The word "sold" for purposes of this section
27 does not include or extend to any sale made by a
28 manufacturer or a distributor to a dealer or by a dealer
29 to another dealer licensed under this part.

30 SEC. 19. Section 18010.3 is added to the Health and
31 Safety Code, to read:

32 18010.3. "Registered owner" means a person having all
33 the incidents of ownership, including the legal title of a
34 mobilehome whether or not such person lends, rents, or
35 creates a security interest in the mobilehome, or the
36 person entitled to the possession of a mobilehome as the
37 purchaser under a security agreement, or the state, or
38 any county, city, district, or political subdivision of the
39 state, or the United States, when entitled to the
40 possession and use of a mobilehome under a lease,

1 lease-sale, or rental-purchase agreement for a period of 30
2 consecutive days or more.

3 SEC. 20. Section 18011.1 is added to the Health and
4 Safety Code, to read:

5 18011.1. “Representative” means any person regularly
6 employed by a manufacturer or distributor for the
7 purpose of negotiating or promoting the sale of the
8 manufacturer’s or distributor’s mobilehomes to their
9 franchisees or for regularly supervising or contacting
10 franchisees or prospective franchisees in this state for any
11 purpose.

12 SEC. 21. Section 18013 is added to the Health and
13 Safety Code, to read:

14 18013. (a) “Salesperson” means a person not otherwise
15 expressly excluded by this section, who does one or a
16 combination of the following:

17 (1) Is employed as a salesperson by a dealer, or who,
18 under any form of contract, agreement, or arrangement
19 with a dealer, for commission, money, profit, or other
20 thing of value, sells, exchanges, buys, or offers for sale,
21 negotiates, or attempts to negotiate, a sale, or exchange
22 of an interest in a mobilehome.

23 (2) Induces or attempts to induce any person to buy or
24 exchange an interest in a mobilehome, and who receives
25 or expects to receive a commission, money, brokerage
26 fees, profit, or any other thing of value, from either the
27 seller or purchaser of said mobilehome.

28 (3) Exercises managerial control over the business of
29 a licensed mobilehome dealer or who supervises
30 salespersons employed by a licensed dealer, whether
31 compensated by salary or commission, including, but not
32 limited to, any person who is employed by such dealer as
33 a general manager, assistant general manager or sales
34 manager, or any employee of a licensed mobilehome
35 dealer who negotiates with or induces a customer to
36 enter into a security agreement or purchase agreement
37 or purchase order for the sale of a mobilehome on behalf
38 of such licensed mobilehome dealer.

39 (b) The term “salesperson” does not include any of
40 the following:

1 (1) Representatives of insurance companies, finance
2 companies, or public officials, who in the regular course
3 of business, are required to dispose of, or sell
4 mobilehomes under a contractual right or obligation of
5 the employer, or in the performance of an official duty,
6 or in authority of any court of law, as long as such sale is
7 for the purpose of saving the seller from any loss or
8 pursuant to the authority of a court of competent
9 jurisdiction.

10 (2) Persons who are licensed as a manufacturer,
11 transporter, distributor, or representative.

12 (3) Persons exclusively employed in a bona fide
13 business of exporting mobilehomes, or of soliciting orders
14 for the sale and delivery of mobilehomes outside the
15 territorial limits of the United States.

16 (4) Persons not engaged in the purchase or sale of
17 mobilehomes as a business, disposing of mobilehomes
18 acquired for their own use, or for use in their business
19 when the same shall have been so acquired and used in
20 good faith, and not for the purpose of avoiding the
21 provisions of this part.

22 (5) Persons licensed as a mobilehome dealer doing
23 business as a sole ownership or member of a partnership
24 or a stockholder and director of a corporation licensed as
25 a mobilehome dealer under this part, as long as such
26 persons engage in the activities of a salesperson
27 exclusively on behalf of such sole ownership or
28 partnership or corporation in which they own an interest
29 or stock, and those persons owning such stock are
30 directors of the corporation; otherwise, they shall be
31 deemed to be mobilehome salespersons and subject to
32 the provisions of Section 18073.3.

33 SEC. 22. Section 18013.5 is added to the Health and
34 Safety Code, to read:

35 18013.5. (a) A "transporter" is a person engaged in the
36 business of moving any owned or lawfully possessed
37 mobilehome by lawful methods over the highways for the
38 purpose of delivery of such mobilehome to dealers, sales
39 agents of a manufacturer, purchasers, or to a new location
40 requested by the owner.

1 (b) The term “transporter” does not include a person
2 engaged in the business of operating a tow car.

3 SEC. 23. Section 18014 is added to the Health and
4 Safety Code, to read:

5 18014. “Used mobilehome” means a mobilehome that
6 has been sold and operated on the highways of this state,
7 or has been registered with the department, or has been
8 sold and operated upon the highways, or has been
9 registered with the appropriate agency of authority, or
10 any other state, District of Columbia, territory or
11 possession of the United States or foreign state, province
12 or country, or unregistered mobilehomes regularly used
13 or operated as demonstrators in the sales work of a dealer
14 or unregistered mobilehomes regularly used or operated
15 by a manufacturer in the sales or distribution work of
16 such manufacturer. The term “sold” for purposes of this
17 section does not include or extend to any sale made by a
18 manufacturer or a distributor to a dealer or by a dealer
19 to another dealer licensed under this part.

20 SEC. 24. Section 18065 is added to the Health and
21 Safety Code, to read:

22 18065. (a) Every new or used mobilehome dealer,
23 shall, upon the buyer’s signing of a purchase order or
24 conditional sales contract or security agreement for a
25 new or used mobilehome, establish with an escrow agent
26 an escrow account into which shall be deposited any cash
27 or cash equivalent received from the buyer at any time
28 prior to delivery as whole or partial payment for the
29 mobilehome, except when a simultaneous transaction
30 occurs in which the buyer receives delivery of a used
31 mobilehome on the site intended for occupancy within
32 two calendar days, one of which shall be the date of sale.

33 (b) No deposits shall be disbursed from the escrow
34 account to the dealer until any of the following conditions
35 are met:

36 (1) The buyer receives delivery of the mobilehome
37 installed on a foundation system and a certificate of
38 occupancy has been issued pursuant to Section 18551.

39 (2) The buyer receives delivery of the mobilehome on
40 the site and the mobilehome has passed inspection

1 pursuant to Section 18613.

2 (3) The mobilehome has been delivered to the
3 location specified in the escrow instructions and the
4 installation is to be performed by the purchaser.

5 The public agency performing inspection of the
6 mobilehome installation shall give either a copy of the
7 certificate of occupancy or the statement of installation
8 acceptance to the buyer. If a portion of the amount in the
9 escrow account is for accessories to the mobilehome,
10 those portions of the amount shall not be released until
11 the accessories are actually installed. If no inspection
12 under either Section 18551 or 18613 is required, deposits
13 may be disbursed from the escrow account upon delivery
14 of the mobilehome to the buyer.

15 (c) The escrow shall terminate and a full refund shall
16 be made to the buyer 120 days from the date of the sales
17 contract unless delivery is made within this period.
18 However, the parties may extend the time in writing for
19 30-day periods with notice to the escrow agent.

20 (d) The provisions of this section shall apply to all sales
21 by a mobilehome dealer of mobilehomes.

22 (e) Except for those persons or corporations described
23 in subdivision (a) or (c) of Section 17006 of the Financial
24 Code, the department shall adopt and amend as
25 necessary rules and regulations for the establishment and
26 maintenance of the escrow accounts with escrow agents
27 or escrow companies licensed and regulated by the State
28 of California.

29 (f) No mobilehome dealer shall establish with an
30 escrow agent an escrow account in an escrow company
31 in which the mobilehome dealer has more than a 5
32 percent ownership interest.

33 (g) Prior to the close of escrow, the dealer shall furnish
34 the escrow agent with (1) the name and address of the
35 legal owner of, or lienholder on, the mobilehome, as set
36 forth on the certificate of ownership or the
37 manufacturer's certificate of origin, and (2) the signed
38 and acknowledged release of all rights, title, or interest in
39 the mobilehome held by either the legal owner or
40 lienholder, whichever is applicable. Any such release

1 shall be conditioned upon the receipt of payment from
2 the escrow account of the amount set forth in such release
3 which is necessary to terminate the interest in the
4 mobilehome.

5 (h) This section creates a civil cause of action against
6 a person who violates the provisions of this section. The
7 prevailing party in such action shall be awarded actual
8 damages plus an amount not in excess of two thousand
9 dollars (\$2,000). In addition, reasonable attorneys' fees
10 and court costs shall also be awarded to the prevailing
11 party, as determined by the court.

12 (i) No agreement shall contain any provision by which
13 the buyer waives his or her rights under this section, and
14 any such waiver shall be deemed contrary to public
15 policy and shall be void and unenforceable.

16 SEC. 25. Chapter 4.5 (commencing with Section 18070)
17 is added to Part 2 of Division 13 of the Health and Safety
18 Code, to read:

19

20

21 CHAPTER 4.5. MANUFACTURERS, DISTRIBUTORS,
22 TRANSPORTERS, DEALERS, AND SALESPERSONS OF
23 MOBILEHOMES

24 Article 1. Manufacturers', Transporters', and Dealers'
25 Licenses

26

27 18070. It shall be unlawful for any person to act as a
28 dealer, manufacturer, or transporter, a manufacturer
29 branch, distributor, or distributor branch, without having
30 first procured a license as required in Section 18070.1 or
31 temporary permit issued by the department, or when
32 such license or temporary permit issued by the
33 department has been canceled, suspended, revoked,
34 invalidated, expired, or the terms and conditions of an
35 agreement entered into pursuant to Section 18070.93
36 have not been fulfilled.

37 18070.1. Every manufacturer of, and manufacturer
38 branch, distributor of, and distributor branch, transporter
39 of, or dealer in mobilehomes shall make application to the
40 department for a license containing a general

1 distinguishing number. The applicant shall submit proof
2 of his or her status as a bona fide manufacturer,
3 manufacturer branch, distributor, distributor branch,
4 transporter, or dealer as may reasonably be required by
5 the department in carrying out the provisions of this
6 chapter.

7 18070.2. The department may issue, or for a reasonable
8 cause shown, refuse to issue a license to any applicant
9 applying for a manufacturer's, manufacturer's branch,
10 distributor's, distributor's branch, transporter's, or
11 dealer's license.

12 18070.3. The department may refuse to issue a license
13 to a manufacturer, manufacturer branch, distributor,
14 distributor branch, transporter, or dealer, when it
15 determines any of the following:

16 (a) The applicant was previously the holder of a
17 license, which license was revoked for cause and never
18 reissued, or which license was suspended for cause and
19 the terms of suspension have not been fulfilled.

20 (b) The applicant was previously a limited or general
21 partner, stockholder, director, or officer of a partnership
22 or corporation whose license was revoked for cause and
23 never reissued or was suspended for cause and the terms
24 of suspension have not been fulfilled.

25 (c) If the applicant is a partnership or corporation, of
26 which one or more of the limited or general partners,
27 stockholders, directors or officers was previously the
28 holder or a limited or general partner, stockholder,
29 director or officer of a partnership or corporation whose
30 license was revoked for cause and never reissued or was
31 suspended for cause and the terms of suspension have not
32 been fulfilled, or by reason of the facts and circumstances
33 touching the organization, control, and management of
34 the partnership or corporation business the policy of such
35 business will be directed, controlled, or managed by
36 individuals who, by reason of their conviction of
37 violations of the provisions of this part, would be
38 ineligible for a license and by licensing such corporation
39 or partnership the purposes of this part would likely be
40 defeated.

1 (d) The applicant, or one of the limited or general
2 partners, if the applicant be a partnership, or one or more
3 of the officers or directors of the corporation, if the
4 corporation be the applicant, or one or more of the
5 stockholders, if the policy of such business will be
6 directed, controlled, or managed by such stockholder or
7 stockholders, has ever been convicted of a felony or a
8 crime involving moral turpitude. A conviction after a
9 plea of nolo contendere is deemed to be a conviction
10 within the meaning of this section.

11 (e) The information contained in the application is
12 incorrect.

13 (f) Upon investigation, the business history required
14 by Section 18070.4 contains incomplete or incorrect
15 information, or reflects substantial business irregularities.

16 (g) The decision of the department to cancel, suspend,
17 or revoke a license has been entered, and this applicant
18 was the licensee, or a copartner, officer, director, or
19 stockholder of such licensee.

20 (h) Any of the causes specified in Section 18070.8 as a
21 cause to suspend or revoke the license issued to a dealer,
22 manufacturer, manufacturer branch, distributor,
23 distributor branch, or transporter, shall be cause to refuse
24 to issue a license to a dealer, manufacturer, manufacturer
25 branch, distributor, distributor branch, or transporter.

26 (i) The department may refuse to issue a license to a
27 dealer when it determines that an applicant for a dealer's
28 license has failed to effectively endorse an authorization
29 for disclosure of an account or accounts relating to the
30 operation of the dealership, as provided for in Section
31 7473 of the Government Code.

32 (j) The department may refuse to issue a license to a
33 manufacturer, manufacturer branch, distributor,
34 distributor branch, transporter, or dealer, when it
35 determines that the applicant has outstanding an
36 unsatisfied final judgment rendered in connection with
37 the purchase, sale, or lease of any mobilehome.

38 18070.4. (a) Every applicant who applies for a license
39 pursuant to Section 18070.1 shall submit an application to
40 the department on the forms prescribed by the

1 department. Such applicant shall provide the
2 department with information as to the applicant's
3 character, honesty, integrity, and reputation, as the
4 department may consider necessary. The department, by
5 regulation, shall prescribe what information is required
6 of such applicant for the purposes of this subdivision.

7 (b) Upon receipt of a complete application for a
8 license which is accompanied by the appropriate fee, the
9 department shall, within 120 days, make a thorough
10 investigation of the information contained in the
11 application.

12 (c) Every person holding a license issued pursuant to
13 Section 18070.1 shall notify the department, within 10
14 days, of any change in the ownership or corporate
15 structure of the license.

16 18070.5. A person whose license has been revoked or
17 application for a license has been denied may reapply for
18 a license after a period of not less than one year has
19 elapsed from the effective date of the decision revoking
20 the license or denying the application, except that if the
21 decision was entered under the authority of subdivision
22 (a), (b), (g), or (j) of Section 18070.3, or paragraph (6)
23 of subdivision (a) of Section 18070.8, a reapplication
24 accompanied by evidence satisfactory to the department
25 that such grounds no longer exist may be made earlier
26 than such one-year period.

27 18070.6. (a) Except as otherwise provided in this
28 section, every applicant for a mobilehome dealer's or
29 salesperson's license, and every mobilehome salesperson
30 who commences working for a mobilehome dealer, shall
31 be required to take, and successfully complete, a written
32 examination, prepared and administered by the
33 department. Such examination shall include, but not be
34 limited to, subjects relating to mobilehomes, laws relating
35 to contracts for the sale of mobilehomes, laws covering
36 truth in lending, and departmental and warranty
37 requirements.

38 (b) The department may administer an oral
39 examination in lieu of the written examination required
40 by subdivision (a) under the following conditions:

1 (1) To any person who applies for a mobilehome
2 salesperson's license.

3 (2) To any person who applies for a mobilehome
4 dealer's license, as long as the person is not the sole owner
5 of the dealership and other persons within the ownership
6 structure meet the requirements of subdivisions (a) and
7 (b).

8 (c) No person who, on July 1, 1976, held a then valid
9 salesperson's license issued pursuant to the Vehicle Code
10 and who has continuously for the same employer been a
11 salesperson of mobilehomes shall be required to take the
12 examination specified in subdivision (a).

13 (d) No person who, on July 1, 1976, held a then valid
14 salesperson's license issued pursuant to the Vehicle Code
15 and who has continuously without lapse been a
16 mobilehome dealer shall be required to take the
17 examination specified in subdivision (a), regardless of
18 whether such person subsequently makes an application
19 to do business under a different name or form of business
20 organization, except that a salesperson of mobilehomes
21 who makes an application for a mobilehome dealer's
22 license shall be required to take, and successfully
23 complete, the examination specified in subdivision (a).

24 (e) If the applicant for a mobilehome dealer's license
25 is a corporation, only those persons who will participate
26 in the direction, control, or management, or any
27 combination thereof, of the sales operations of the
28 business, or who act in the capacity of a mobilehome
29 salesperson, shall be required to take and successfully
30 complete the examination specified in subdivision (a),
31 except that if no officer or director of the corporation
32 participates in the direction, control, or management, or
33 any combination thereof, of the sales operations of the
34 business, or acts in the capacity of a mobilehome
35 salesperson, the corporation shall designate and maintain
36 a responsible managing employee who is a licensed
37 mobilehome salesperson and who shall be required to
38 take, and successfully complete, the examination
39 specified in subdivision (a) for a dealer's license before a
40 dealer's license may be issued.

1 18070.7. Every person who applies to the department
2 to take the examination required under Section 18070.6
3 for a mobilehome dealer's or salesperson's license shall
4 pay to the department a fee established by the
5 department.

6 18070.8. (a) The department, after notice and hearing,
7 may suspend or revoke the license issued to a dealer,
8 transporter, manufacturer, manufacturer branch,
9 distributor, or distributor branch upon determining that
10 the person to whom the license was issued is not lawfully
11 entitled thereto, or has committed any of the following
12 acts:

13 (1) Filed an application for the license thereafter
14 issued using a false or fictitious name not registered with
15 the proper authorities, or knowingly made any false
16 statement or knowingly concealed any material fact in
17 the application for such license.

18 (2) Made, or knowingly or negligently permitted, any
19 illegal use of any special permits issued to or in favor of
20 such license.

21 (3) Used a false or fictitious name, knowingly made
22 any false statement, or knowingly concealed any material
23 fact, in any application for title of a mobilehome, or
24 otherwise committed a fraud in such application.

25 (4) Failed to deliver to a transferee lawfully entitled
26 thereto a properly endorsed title.

27 (5) Knowingly purchased, sold, or otherwise acquired
28 or disposed of a stolen mobilehome.

29 (6) Failed to provide and maintain a clear physical
30 division between the type of business licensed pursuant
31 to this chapter and any other type of business conducted
32 at the established place of business.

33 (7) Willfully violated any law, or any rule or regulation
34 adopted by the commission or the department, relating
35 to mobilehomes and mobilehome sales.

36 (8) Failed to comply within a reasonable time with
37 any written order of the department.

38 (9) Violated any of the terms or provisions of Part 5
39 (commencing with Section 10701) of Division 2 of the
40 Revenue and Taxation Code or rules and regulations

1 adopted pursuant thereto or adopted pursuant to Section
2 18020 of this code.

3 (10) Violated any of the terms or provisions of Chapter
4 2b (commencing with Section 2981) of Title 14 of Part 4
5 of Division 3 of the Civil Code or the rules and regulations
6 adopted pursuant thereto under the authority of Section
7 18020.

8 (11) Submitted a check, draft, or money order to the
9 department for any obligation or fee due the department
10 which is thereafter dishonored or refused payment upon
11 presentation.

12 (12) Caused the state or any person to suffer any loss
13 or damage by reason of any fraud or deceit practiced on
14 them or fraudulent representations made to such person
15 in the sale or purchase of a mobilehome or parts or
16 accessories thereof.

17 (13) Violated any of the terms and conditions of
18 Chapter 3 (commencing with Section 1797) of Title 1.7 of
19 Part 4 of Division 3 of the Civil Code.

20 (14) Violated any of the terms or provisions of Section
21 18065 relating to escrow or any rule, regulation, or order
22 issued by the department pursuant thereto.

23 (15) Failed to meet the terms and conditions of an
24 agreement effected under the provisions of Section
25 18070.93.

26 For the purposes of this subdivision, the term "fraud"
27 includes any act or omission which is included within the
28 definition of either "actual fraud" or "constructive fraud"
29 as defined, respectively, in Sections 1572 and 1573 of the
30 Civil Code, and the term "deceit" has the same meaning
31 as defined in Section 1710 of the Civil Code.

32 In addition, the terms "fraud" and "deceit" include,
33 but are not limited to, the following:

34 (A) A misrepresentation in any manner, whether
35 intentionally false or due to gross negligence, of a
36 material fact.

37 (B) A promise or representation not made honestly
38 and in good faith.

39 (C) An intentional failure to disclose a material fact.

40 (D) Any act falling within the provisions of Section 484

1 of the Penal Code.

2 (b) Any of the causes specified in Section 18070.3 as a
3 cause for refusal to issue a license to a transporter,
4 manufacturer, manufacturer branch, distributor,
5 distributor branch, or dealer applicant shall be cause to
6 suspend or revoke a license issued to a transporter,
7 manufacturer, manufacturer branch, distributor,
8 distributor branch, or dealer.

9 (c) Except as provided in Section 18070.93, every
10 hearing as provided for in this section shall be pursuant
11 to the provisions of Chapter 5 (commencing with Section
12 11500) of Part 1 of Division 3 of Title 2 of the Government
13 Code.

14 (d) The department, after notice and hearing, may
15 suspend or revoke the license issued to a dealer,
16 transporter, manufacturer, manufacturer branch,
17 distributor, or distributor branch upon determining that
18 the person to whom the license was issued is not lawfully
19 entitled thereto or has violated any of the provisions of
20 this part or of Section 18613 or any rule, regulation, or
21 order issued pursuant thereto.

22 (e) The department, after notice and hearing, may
23 suspend or revoke the license issued to a mobilehome
24 dealer upon determining that the person to whom the
25 license was issued has committed any of the following
26 acts:

27 (1) While acting under the authority of Section
28 18072.2, entered into an exclusive listing agreement that
29 did not include a specified date upon which the
30 agreement was to terminate.

31 (2) While acting under the authority of Section
32 18072.2, claimed or took any secret or undisclosed amount
33 of compensation, commission, fee, or profit or fails to
34 divulge to his principal the full amount of such
35 compensation, commission, fee, or profit prior to, or at
36 the time that, a contractual agreement is signed whereby
37 all parties involved, after negotiation, have come to
38 terms. However, this section shall not be construed to
39 require the disclosure of any exclusive financial
40 arrangements agreed upon between the mobilehome

1 dealer and any financial institution with regard to
2 financial arrangements applicable solely to them.

3 (3) While acting under the authority of Section
4 18072.2, used any provisions allowing an option to
5 purchase in an agreement authorizing or employing such
6 mobilehome dealer to sell, buy, or exchange
7 mobilehomes for compensation or commission except
8 when such mobilehome dealer, prior to or coincident
9 with the election to exercise such option to purchase,
10 reveals in writing to the employer the full amount of a
11 mobilehome dealer's profit and obtains the written
12 consent of the employer approving the amount of such
13 profit.

14 18070.9. The department may, pending a hearing,
15 temporarily suspend the license issued to a manufacturer,
16 manufacturer branch, distributor, distributor branch,
17 transporter, dealer, or salesperson, for a period not to
18 exceed 30 days, if the director finds that such action is
19 required in the public interest. In any such case a hearing
20 shall be held and a decision thereon issued within 30 days
21 after notice of the temporary suspension.

22 Every hearing as provided for in this section shall be
23 pursuant to the provisions of Chapter 5 (commencing
24 with Section 11500) of Part 1 of Division 3 of Title 2 of the
25 Government Code.

26 18070.93. (a) The director may, following the filing of
27 an accusation against a licensee under this chapter and
28 prior to conducting a hearing pursuant to the provisions
29 of Chapter 5 (commencing with Section 11500) of Part 1
30 of Division 3 of Title 2 of the Government Code, exercise
31 an option, with the consent of the licensee, to enter into
32 and adopt a stipulated penalty whereby the licensee
33 agrees to accept the terms and conditions of such penalty
34 without hearing or appeal by any party thereto.

35 (b) Except when the accusation alleges injury to, or
36 fraud against, the public or the state, the director may,
37 following the filing of an accusation against a licensee or
38 prior to adopting any recommendation resulting from a
39 hearing, exercise an option, with the consent of the
40 licensee, to impose and require the payment of a

1 monetary penalty of a minimum and maximum amount
2 for each violation alleged and stipulated to by the
3 licensee, as established by a schedule under regulations
4 adopted by the department, without further hearing or
5 appeal, and without any other form of penalty against the
6 licensee which may otherwise have been imposed for the
7 same offense or offenses had the matter proceeded to
8 hearing or had the director adopted the decision of the
9 hearing officer.

10 (c) Each compromise settlement agreement and each
11 monetary penalty agreement entered into pursuant to
12 this section shall be signed by the respondent licensee,
13 the director, and the accuser, or by their authorized
14 representatives, and filed with the Office of
15 Administrative Hearings, together with the department's
16 notice of withdrawal of the accusation upon which such
17 action was initiated if the compromise settlement
18 agreement or monetary payment agreement is entered
19 into before the hearing.

20 (d) Failure of the respondent to honor the terms and
21 conditions of any agreement entered into under this
22 section shall render such agreement null and void, and
23 will be cause for action pursuant to Section 18070.8 in the
24 same manner as the department may have otherwise
25 proceeded notwithstanding such agreement.

26 The amount of the penalty provided for in subdivision
27 (b) of this section shall not exceed one hundred fifty
28 dollars (\$150) per violation and shall be based upon the
29 nature of the violation and the seriousness of the effect of
30 such violation upon the effectuation of the purposes and
31 provisions of this chapter.

32 18070.96. (a) Upon refusal of the department to issue
33 a license to a manufacturer, manufacturer branch,
34 distributor, distributor branch, transporter, dealer, or
35 salesperson, the applicant shall be entitled to demand in
36 writing a hearing before the director or his
37 representative within 60 days after notice of refusal.

38 (b) The hearing shall be conducted pursuant to the
39 provisions of Chapter 5 (commencing with Section
40 11500) of Part 1 of Division 3 of Title 2 of the Government

1 Code.

2 18071.1. (a) A dealer's established place of business,
3 and such other sites or locations as may be operated and
4 maintained by such dealers in conjunction with their
5 established place of business, shall have posted in a place
6 conspicuous to the public in each and every location the
7 license issued by the department to the dealer and to
8 each salesperson employed by the dealer and shall have
9 erected or posted thereon such signs or devices providing
10 information relating to the dealer's name, the location
11 and address of such dealer's established place of business
12 to enable any person doing business with such dealer to
13 identify the dealer properly. Every such sign erected or
14 posted on an established place of business, shall have an
15 area of not less than two square feet per side displayed,
16 and shall contain lettering of sufficient size to enable the
17 sign to be read from a distance of at least 50 feet.

18 (b) Notwithstanding the provisions of Section 18070.4
19 and this section, a dealer may display mobilehomes at a
20 fair, exposition or similar exhibit without securing a
21 branch license providing no actual sales are made at such
22 events, and that such display does not exceed 30 days.

23 (c) Mobilehomes may also be displayed as a model
24 home within a mobilehome park, mobilehome
25 subdivision, mobilehome planned unit development, or
26 mobilehome cooperative, until the mobilehome park,
27 mobilehome subdivision, mobilehome planned unit
28 development, or mobilehome cooperative has reached 70
29 percent occupancy.

30 (d) All mobilehomes displayed pursuant to
31 subdivision (b) or (c) shall be identified by a sign or
32 device providing information relating to the dealer's
33 name and the location and address of such dealer's
34 established place of business.

35 18071.2. (a) A mobilehome dealer may be licensed to
36 sell mobilehomes at a branch location office without a
37 display area as long as all other provisions of this section
38 are met. The provisions of this subdivision are applicable
39 to the sale of used mobilehomes only and only as a branch
40 location office which is not within a mobilehome park.

1 (b) Any new, unregistered mobilehome which is
2 displayed at a mobilehome fair or exposition, not
3 exceeding 30 days, may be used as an office required
4 pursuant to Section 18005.7.

5 As used in this section, "mobilehome fair or exposition"
6 means a display of mobilehomes by two or more dealers,
7 except in a mobilehome park, for a period not to exceed
8 30 days.

9 18071.3. (a) Before any dealer's license is issued or
10 renewed by the department to any applicant therefor,
11 the applicant shall procure and file with the department
12 a good and sufficient bond in the amount of five thousand
13 dollars (\$5,000) with corporate surety thereon, duly
14 licensed to do business within the State of California, or
15 a cash bond in such amount, approved as to form by the
16 Attorney General, and conditioned that the applicant
17 shall not practice any fraud, make any fraudulent
18 representation which will cause a monetary loss to a
19 purchaser, seller, financing agency, or governmental
20 agency.

21 (b) Liability under such bond is to remain at five
22 thousand dollars (\$5,000). If the amount of liability under
23 the bond is decreased or there is outstanding a final court
24 judgment for which the dealer and bonding company is
25 liable, the dealer's license shall be automatically
26 suspended. In order to reinstate the license, the licensee
27 shall either file an additional bond or restore the bond on
28 file to the original amount, or shall terminate the
29 outstanding judgment for which he or she and the
30 bonding company are liable.

31 (c) A dealer's license, or renewal of such license, shall
32 not be issued to any applicant therefor, unless and until
33 such applicant shall file with the department a good and
34 sufficient instrument in writing in which he or she shall
35 appoint the director as the true and lawful agent of the
36 applicant upon whom all process may be served in any
37 action, or actions, which may thereafter be commenced
38 against such applicant, arising out of any claim for
39 damages suffered by any firm, person, association or
40 corporation, by reason of the violation of the applicant of

1 any of the terms and provisions of this code or any
2 condition of the dealer's bond. The applicant shall
3 stipulate and agree in such appointment that any process
4 directed to the applicant, when personal service of
5 process upon him or her cannot be made in this state after
6 due diligence, in such a case which is served upon the
7 director, or in the event of his or her absence from his or
8 her office, upon any employee in charge of the office of
9 such director, shall be of the same legal force and effect
10 as if served upon such applicant personally. The
11 applicant shall further stipulate and agree in writing that
12 the agency created by said appointment shall continue
13 for and during the period covered by any license that
14 may be issued and so long thereafter as the applicant may
15 be made to answer in damages for a violation of this part
16 or any condition of his or her bond. The instrument
17 appointing the director as the agent for the applicant for
18 service of process shall be acknowledged by the applicant
19 before a notary public. In any case wherein the licensee
20 is served with process by service thereof upon the
21 director one copy of the summons and complaint shall be
22 left with the director or in the office in Sacramento or
23 mailed to the office of the director in Sacramento. A fee
24 of five dollars (\$5) shall also be paid to the director at the
25 time of service of the copy of the summons and
26 complaint. Such service on the director shall be a
27 sufficient service on the licensee, as long as a notice of
28 such service and a copy of the summons and complaint
29 is sent immediately by registered mail by the plaintiff or
30 his or her attorney to such licensee. A copy of the
31 summons and complaint shall be mailed by the plaintiff
32 or his or her attorney to the surety on the applicant's
33 bond at the address of the surety given in such bond,
34 postpaid and registered with request for return receipt.
35 The director shall keep a record of all process so served
36 upon the director which shall show the day and hour of
37 service and the director shall retain the summons and
38 complaint so served on file. Where the licensee is served
39 with process by service thereof upon the director, the
40 licensee shall have and be allowed 30 days from and after

1 the service thereof within which to answer any complaint
2 or other pleading which may be filed in such cause.
3 However, for purposes of venue, where the licensee is
4 served with process by service thereof upon the director,
5 the service shall be deemed to have been made upon the
6 licensee in the county in which he or she has or last had
7 an established place of business.

8 18071.4. An applicant may, in lieu of and subject to the
9 same conditions as the bond required by Section 18071.3,
10 deposit with the department a cash bond in the sum of
11 five thousand dollars (\$5,000), evidence, together with an
12 assignment to the director, deposit of such sum in banks
13 authorized to do business in this state and insured by the
14 Federal Deposit Insurance Corporation, or evidence
15 investment certificates or share accounts in the amount
16 of five thousand dollars (\$5,000) issued a savings and loan
17 association doing business in this state and insured by the
18 Federal Savings and Loan Insurance Corporation.

19 18071.5. The director may order a refund of a cash
20 deposit or release an assignment of an investment
21 certificate, share account, or bank deposit posted or filed
22 with the department pursuant to Section 18071.3 or
23 18071.4 at the expiration of three years from the date an
24 applicant for a dealer's license who has operated a
25 business of selling vehicles under a temporary permit, has
26 ceased to do business, or three years from the date a
27 licensee has ceased to be licensed, if the director is
28 satisfied that there are no outstanding claims against the
29 funds so deposited or assigned. A judge of a municipal or
30 superior court may order the return of a cash deposit or
31 release of assignment of such investment certificate,
32 share account, or bank deposit posted or filed with the
33 department prior to the expiration of three years upon
34 evidence satisfactory to the judge that there are no
35 outstanding claims against the security so deposited by
36 the applicant or licensee.

37 If either the director, department, or state is a
38 defendant in any action instituted to recover all or any
39 part of such deposited cash, investment certificates, share
40 accounts, or bank deposits, or any action is instituted by

1 the director, department, or state to determine those
2 entitled to any part of such funds, the director,
3 department, or state shall be paid reasonable attorney
4 fees and costs from such funds. Costs shall include those
5 administrative costs incurred in processing claims against
6 the security posted in lieu of bond pursuant to Sections
7 18071.3 and 18071.4.

8 18071.6. (a) If any person (1) shall suffer any loss or
9 damage by reason of any fraud practiced on him or her
10 or fraudulent representation made to him or her by a
11 licensed dealer or one of such dealer's salespersons acting
12 for the dealer, in his or her behalf, or within the scope of
13 the employment of such salesperson and such person has
14 possession of a written instrument furnished by the
15 licensee, containing stipulated provisions and guarantees
16 which the person believes have been violated by the
17 licensee, or (2) shall suffer any loss or damage by reason
18 of the violation by such dealer or salesperson of any of the
19 provisions of Division 3 (commencing with Section 4000)
20 of the Vehicle Code or (3) is not paid for a mobilehome
21 sold to and purchased by a licensee then any such person
22 shall have a right of action against such dealer, his or her
23 salesperson, and the surety upon the dealer's bond in an
24 amount not to exceed the value of the mobilehome
25 purchased from or sold to the dealer.

26 (b) If the state or any political subdivision thereof shall
27 suffer any loss or damage by reason of any fraud practiced
28 on the state or fraudulent representation made to the
29 state by a licensed dealer, or one of such dealer's
30 representatives acting for the dealer, in his or her behalf,
31 or within the scope of employment of such
32 representatives, or shall suffer any loss or damage by
33 reason of the violation of such dealer or representative of
34 any of the provisions of this code or Part 5 (commencing
35 with Section 10701), Division 2 of the Revenue and
36 Taxation Code, the state or any political subdivision
37 thereof, through the department, shall have a right of
38 action against such dealer, his or her representative, and
39 the surety upon the dealer's bond in an amount not to
40 exceed the value of the mobilehomes involved.

1 (c) The failure of a dealer upon demand to pay the
2 fees and penalties determined to be due as provided in
3 Section 4456 of the Vehicle Code is declared to be a
4 violation of Division 3 (commencing with Section 4000)
5 of the Vehicle Code, and Part 5 (commencing with
6 Section 10701), Division 2 of the Revenue and Taxation
7 Code and to constitute loss or damage to the state in the
8 amounts of such fees and penalties determined to be due
9 and not paid.

10 (d) The claims of the state under subdivision (b) shall
11 be satisfied first and entitled to preference over all claims
12 under subdivision (a).

13 (e) The claims of any person under subdivision (a)
14 who is not a licensee shall be satisfied first and entitled to
15 preference over all other claims under subdivision (a).

16 18071.7. (a) The department shall not issue a dealer's
17 license to any applicant therefor who has not an
18 established place of business.

19 If the dealer changes the site or location of his or her
20 established place of business, the dealer shall
21 immediately upon making such change so notify the
22 department. If a dealer for any reason whatsoever, ceases
23 to be in possession of an established place of business from
24 and on which he or she conducts the business for which
25 the dealer is licensed, he or she shall immediately notify
26 the department and upon demand by the department
27 shall deliver to the department such dealer's license and
28 all relevant records in his or her possession.

29 (b) If the dealer changes to, or adds another franchise
30 for the sale of new mobilehomes, or cancels or, for any
31 cause whatever, otherwise loses a franchise for the sale of
32 new mobilehomes, he or she shall immediately so notify
33 the department.

34 18071.8. It is unlawful, a violation of this code, and cause
35 for suspension or revocation of any license issued
36 hereunder, for the holder of any license issued under this
37 article to do any of the following:

38 (a) To make or disseminate or cause to be made or
39 disseminated before the public in this state, in any
40 newspaper or other publication, or any advertising

1 device, or by public outcry or proclamation, or in any
2 other manner or means whatsoever, any statement which
3 is untrue or misleading, and which is known, or which by
4 the exercise of reasonable care should be known, to be
5 untrue or misleading, or to so make or disseminate or
6 cause to be so disseminated any such statement as part of
7 a plan or scheme with the intent not to sell any
8 mobilehome or service so advertised at the price therein,
9 or as so advertised.

10 (b) To advertise or offer for sale or exchange in any
11 manner, any mobilehome not actually for sale at the
12 premises of such dealer or available to such dealer from
13 the manufacturer or distributor of such mobilehome at
14 the time of the advertisement or offer. However, this
15 subdivision does not apply to advertising or offering for
16 sale or exchange any used mobilehome or used
17 commercial coach, other than a recreational vehicle,
18 where such advertising or offering for sale is not contrary
19 to any terms of a contract between the seller of the
20 mobilehome or commercial coach and the owner of the
21 mobilehome park, and which mobilehome or commercial
22 coach is either in place on a lot rented or leased for
23 human habitation within an established mobilehome
24 park, or is otherwise located, pursuant to a local zoning
25 ordinance or permit, on a lot where its presence has been
26 authorized or its continued presence and such use would
27 be authorized, for a total and uninterrupted period of at
28 least one year.

29 (c) To fail within 48 hours in writing to withdraw any
30 advertisement of a mobilehome that has been sold or
31 withdrawn from sale.

32 (d) To advertise or represent a mobilehome as a new
33 mobilehome if such mobilehome has previously been
34 occupied as a residence.

35 (e) To engage in the business for which licensee is
36 licensed without having in force and effect a good and
37 sufficient bond as hereinbefore provided.

38 (f) For any licensed dealer to engage in the business
39 for which such dealer is licensed without at all times
40 maintaining an established place of business as required

1 by this code.

2 (g) To include as an added cost to the selling price of
3 a mobilehome, an amount for licensing or transfer of title
4 of the mobilehome, which amount is not due to the state
5 unless, prior to the sale, such amount has been paid by a
6 dealer to the state in order to avoid penalties that would
7 have accrued because of late payment of such fees.
8 However, a dealer may collect, from the second
9 purchaser of a mobilehome, a prorated fee based upon
10 the number of months remaining in the registration year
11 for that mobilehome, if the mobilehome had been
12 previously sold by the dealer and the sale was
13 subsequently rescinded and all the fees that were paid, as
14 required by this code and Chapter 2 (commencing with
15 Section 10751) of Division 2 of the Revenue and Taxation
16 Code, were returned to the first purchaser of the
17 mobilehome.

18 (h) To employ any person as a salesperson who has not
19 been licensed pursuant to this chapter, and whose license
20 is not displayed on the premises of the dealer as provided
21 in Section 18074.1.

22 (i) To advertise or otherwise represent, or knowingly
23 to allow to be advertised or represented on his or her
24 behalf or at his or her place of business, that no down
25 payment is required in connection with the sale of a
26 mobilehome when a down payment is in fact required
27 and the buyer is advised or induced to finance such down
28 payment by a loan in addition to any other loan financing
29 the remainder of the purchase price of the vehicle.

30 (j) To participate in the sale of a mobilehome reported
31 to the Department of Motor Vehicles under the
32 provisions of Section 5900 of the Vehicle Code without
33 making the return and payment of any sales tax due and
34 required by Section 6451 of the Revenue and Taxation
35 Code.

36 (k) To permit the use of his or her dealer's license,
37 supplies, or books by any other person for the purpose of
38 permitting that person to engage in the sale of
39 mobilehomes required to be registered under this code,
40 or to permit the use of the dealer's license, supplies, or

1 books to operate a branch location to be used by any
2 other person, if, in either situation, the licensee has no
3 financial or equitable interest or investment in the
4 mobilehomes sold by, or the business of, or branch
5 location used by, such person, or has no such interest or
6 investment other than commissions, compensations, fees,
7 or any other thing of value received for the use of the
8 dealer's license, supplies, or books to engage in the sale
9 of mobilehomes.

10 (l) To fail to deliver or honor the terms and conditions
11 of any warranty, as set forth in Chapter 3 (commencing
12 with Section 1797) of Title 1.7 of Part 4 of Division 3 of the
13 Civil Code.

14 (m) To violate any of the terms or provisions of
15 Section 18065 relating to escrow.

16 (n) For the holder of any dealer's license issued under
17 this article to do any of the following:

18 (1) To advertise any specific mobilehome for sale
19 without identifying such mobilehome by its serial
20 number.

21 (2) To advertise the total price of a mobilehome
22 without including all costs to the purchaser at time of
23 delivery at the dealer's premises, except sales tax, title
24 fees, the fee charged by the state for the issuance of the
25 certificate of compliance or certificate of waiver pursuant
26 to Section 9889.56 of the Business and Professions Code,
27 finance charges and any dealer documentary preparation
28 charge. The dealer documentary preparation charge
29 shall not exceed twenty dollars (\$20).

30 (3) To exclude from the advertisement of a
31 mobilehome for sale that there will be added to the
32 advertised total price at the time or sale, charges for sales
33 tax, mobilehome registration fees, the fee charged by the
34 state for the issuance of the certificate of compliance or
35 certificate of waiver pursuant to Section 9889.56 of the
36 Business and Professions Code, and any dealer
37 documentary preparation charge.

38 (4) To represent the dealer documentary preparation
39 charge as a governmental fee.

40 (5) To refuse to sell a mobilehome to any person at the

1 advertised total price, exclusive of sales tax, mobilehome
2 title fees, the fee charged by the state for the issuance of
3 the certificate of compliance or certificate of waiver
4 pursuant to Section 9889.56 of the Business and
5 Professions Code, finance charges, and dealer
6 documentary preparation charge, which charges shall
7 not exceed twenty dollars (\$20) while such mobilehome
8 remains unsold, unless the advertisement states the
9 advertised total price is good only for a specified time and
10 such time has elapsed.

11 (o) For any manufacturer, manufacturer branch,
12 distributor, or distributor branch licensed under this code
13 to coerce or attempt to coerce any dealer in this state to
14 do any of the following:

15 (1) To order or accept delivery of any mobilehome,
16 part or accessory thereof, appliance, equipment or any
17 other commodity not required by law which shall not
18 have been voluntarily ordered by the dealer.

19 (2) To order or accept delivery of any mobilehome
20 with special features, appliances, accessories or
21 equipment not included in the list price of such
22 mobilehome as publicly advertised by the manufacturer
23 or distributor.

24 (3) To order for any person any parts, accessories,
25 equipment, machinery, tools, appliances, or any
26 commodity whatsoever.

27 (4) To participate in an advertising campaign or
28 contest, any promotional campaign, promotional
29 materials, training materials, showroom or other display
30 decorations or materials at the expense of the dealer.

31 (5) To enter into any agreement with the
32 manufacturer, manufacturer branch, distributor, or
33 distributor branch, or to do any other act prejudicial to
34 the dealer by threatening to cancel a franchise or any
35 contractual agreement existing between the dealer and
36 manufacturer, manufacturer branch, distributor, or
37 distributor branch. Notice in good faith to any dealer of
38 the dealer's violation of any terms or provisions of such
39 franchise or contractual agreement shall not constitute a
40 violation of this article.

1 (p) For any manufacturer, manufacturer branch,
2 distributor, or distributor branch licensed under this code
3 to do any of the following:

4 (1) To refuse or fail to deliver in reasonable quantities
5 and within a reasonable time after receipt of an order
6 from a dealer having a franchise for the retail sale of any
7 new mobilehome sold or distributed by the manufacturer
8 or distributor, any new mobilehome or parts or
9 accessories to new mobilehomes as are covered by such
10 franchise, if such mobilehome, parts or accessories are
11 publicly advertised as being available for delivery or
12 actually being delivered. This subdivision is not violated,
13 however, if such failure is caused by acts or causes beyond
14 the control of the manufacturer, manufacturer branch,
15 distributor, or distributor branch.

16 (2) To prevent or require or attempt to prevent or
17 require, by contract or otherwise any change in the
18 capital structure of a dealership, provided that the dealer
19 at all times meets any reasonable capital standards agreed
20 to by the dealer and the manufacturer or distributor, and
21 also provided that no change in capital structure shall
22 cause a change in the principal management or have the
23 effect of a sale of the franchise without the consent of the
24 manufacturer or distributor.

25 (3) To prevent or require, or attempt to prevent or
26 require, a dealer to change the executive management of
27 a dealership, other than the principal dealership operator
28 or operators if the franchise was granted the dealer in
29 reliance upon the personal qualifications of such person
30 or persons.

31 (4) To prevent or require, or attempt to prevent or
32 require, by contract or otherwise, any dealer, or any
33 officer, partner, or stockholder of any dealership, the sale
34 or transfer of any part of the interest of any of them to any
35 other person or persons. No dealer, officer, partner, or
36 stockholder shall, however, have the right to sell, transfer,
37 or assign the franchise, or any right thereunder, without
38 the consent of the manufacturer or distributor except
39 that such consent shall not be unreasonably withheld.

40 (5) To prevent, or attempt to prevent, a dealer from

1 receiving fair and reasonable compensation for the value
2 of the franchised business. There shall be no transfer or
3 assignment of the dealer's franchise without the consent
4 of the manufacturer or distributor, which consent shall
5 not be unreasonably withheld.

6 (6) To obtain money, goods, service, or any other
7 benefit from any other person with whom the dealer does
8 business, on account of, or in relation to, the transaction
9 between the dealer and such other person, other than for
10 compensation for services rendered, unless such benefit
11 is promptly account for, and transmitted to, the dealer.

12 (7) To require a dealer to prospectively assent to a
13 release, assignment, novation, waiver, or estoppel which
14 would relieve any person for liability to be imposed by
15 this chapter or to require any controversy between a
16 dealer and a manufacturer, distributor, or representative,
17 to be referred to any person other than the department,
18 if such referral would be binding on the dealer. This
19 subdivision shall not, however, prohibit arbitration
20 before an independent arbitrator.

21 (8) To increase prices of mobilehomes which the
22 dealer had ordered for private retail consumers prior to
23 the dealer's receipt of the written official price increase
24 notification. A sales contract signed by a private retail
25 consumer shall constitute evidence of each such order. In
26 the event of manufacturer price reductions, the amount
27 of any such reduction received by a dealer shall be passed
28 on to the private retail consumer by the dealer if the
29 retail price was negotiated on the basis of the previous
30 higher price to the dealer. Price reductions shall apply to
31 all vehicles in the dealer's inventory which were subject
32 to the price reduction. Price differences applicable to
33 new model or series mobilehomes at the time of the
34 introduction of new models or series shall not be
35 considered a price increase or price decrease. Price
36 changes caused by either (i) the addition to a
37 mobilehome of required or optional equipment pursuant
38 to state or federal law, or (ii) revaluation of the United
39 States dollar in the case of foreign make mobilehomes,
40 shall not be subject to the provisions of this subdivision.

1 (9) To fail to pay to a dealer, within a reasonable time
2 following receipt of a valid claim by a dealer thereof, any
3 payment agreed to be made by the manufacturer or
4 distributor to the dealer by reason of the fact that a new
5 mobilehome of a prior year model is in such dealer's
6 inventory at the time of introduction of new model
7 mobilehomes. A manufacturer or distributor shall not
8 authorize or enable any new model to be delivered by
9 dealers at retail more than 30 days prior to the eligibility
10 date of such model change allowance payment for prior
11 year model mobilehomes.

12 (10) To deny the widow or heirs designated by a
13 deceased owner of a dealership, the opportunity to
14 participate in the ownership of such dealership or
15 successor dealership under a valid franchise for a
16 reasonable time after the death of such owner.

17 (11) To offer any refunds or other types of
18 inducements to any person for the purchase of new
19 mobilehomes of a certain make-model to be sold to the
20 state or any political subdivision thereof without making
21 the same offer to all other dealers in the same
22 make-model within the relevant market area.

23 (12) To employ a person as a representative who has
24 not been licensed pursuant to this chapter.

25 (13) To deny any dealer the right of free association
26 with any other dealer for any lawful purpose.

27 (14) To compete with a dealer in the same
28 make-model operating under an agreement or franchise
29 from a manufacturer or distributor in the relevant
30 market area. A manufacturer or distributor shall not,
31 however, be deemed to be competing when operating a
32 dealership either temporarily for a reasonable period, or
33 in a bona fide retail operation which is for sale to any
34 qualified independent person at a fair and reasonable
35 price, or in a bona fide relationship in which an
36 independent person has made a significant investment
37 subject to loss in the dealership and can reasonably
38 expect to acquire full ownership of such dealership on
39 reasonable terms and conditions. A distributor shall not
40 be deemed to be competing when a wholly owned

1 subsidiary corporation of such distributor sells
2 mobilehomes at retail, if, for at least three years prior to
3 January 1, 1973, such subsidiary corporation has been a
4 wholly owned subsidiary of such distributor and engaged
5 in the sale of mobilehomes at retail.

6 (15) To unfairly discriminate among its franchisees
7 with respect to warranty reimbursement or authority
8 granted its franchisees to make warranty adjustments
9 with retail customers.

10 (16) To sell mobilehomes to persons not licensed
11 under this chapter for resale.

12 18071.9. If a purchaser of a mobilehome pays to the
13 dealer an amount for the transfer of title of the
14 mobilehome, which amount is in excess of the actual fees
15 due for such transfer, or which amount is in excess of the
16 amount which has been paid, prior to the sale, by the
17 dealer to the state in order to avoid penalties that would
18 have accrued because of late payment of such fees, the
19 dealer shall return such excess amount to the purchaser,
20 whether or not such purchaser requests the return of the
21 excess amount.

22 18072.1. (a) It is unlawful and a violation of this
23 chapter, for the holder of any license issued under this
24 article to display for sale, offer for sale, or sell, a
25 mobilehome, representing such mobilehome to be of a
26 year model different from the year model designated at
27 the time of manufacture or first assembly as a completed
28 mobilehome.

29 (b) It is unlawful and a violation of this code, for the
30 holder of any license issued under this article to directly
31 or indirectly authorize or advise another holder of a
32 license issued under this article to change the year model
33 of a mobilehome in the inventory of such other holder.

34 18072.2. A mobilehome dealer may solicit or obtain
35 listings of, engage in the multiple listing with other
36 licensed mobilehome dealers of, or engage in payments
37 to another mobilehome dealer, dealers, or multiple
38 groups of dealers, pursuant to cooperative brokering and
39 referral arrangements, or agreements on the sale of, any
40 used mobilehome which has been titled under the

1 authority of the Vehicle Code for at least one year.

2 18072.3. (a) The department, upon granting a license,
3 shall issue to the applicant a license containing the
4 applicant's name and address and the general
5 distinguishing number assigned to the applicant.

6 (b) When the department has issued a license
7 pursuant to subdivision (a), the licensee may apply for
8 and the department shall issue transportation decals or
9 other visual display which shall have a general
10 distinguishing number assigned to the applicant. Fees for
11 such decal or visual display shall be established by the
12 department and shall be paid by the applicant at the time
13 the application is made.

14 (c) The department shall also furnish books and forms
15 as it may determine necessary. Such books and forms are
16 and shall remain the property of the department and may
17 be taken up at any time for inspection.

18 18072.4. Except where the provisions of this chapter
19 require the refusal to issue a license, the department may
20 issue a probationary license subject to conditions to be
21 observed by the licensee in the exercise of the privilege
22 granted. The conditions to be attached to the exercise of
23 the privilege shall not appear on the face of the license
24 but shall be such as may, in the judgment of the
25 department, be in the public interest and suitable to the
26 qualifications of the applicant as disclosed by the
27 application and investigation by the department of the
28 information contained therein.

29 18072.5. Pending the satisfaction of the department
30 that the applicant has met the requirements under this
31 article, it may issue a temporary permit to any person
32 applying for a manufacturer's, manufacturer's branch,
33 distributor's, distributor's branch, transporter's,
34 salespersons's or dealer's license. The temporary permit
35 shall permit the operation by the manufacturer,
36 manufacturer branch, distributor, distributor branch,
37 transporter or dealer for a period not to exceed 120 days
38 while the department is completing its investigation and
39 determination of all facts relative to the qualifications of
40 the applicant to such license. The department may cancel

1 such temporary permit when it has determined or has
2 reasonable cause to believe that the application is
3 incorrect or incomplete or the temporary permit was
4 issued in error. Such temporary permit shall be invalid
5 when canceled or when the applicant's license has been
6 issued or refused.

7 18072.6. The department may issue a certificate of
8 convenience to the executor, executrix, administrator or
9 administratrix of the estate of a deceased holder of validly
10 outstanding license issued under this article, or if no
11 executor, executrix, administrator or administratrix has
12 been appointed, and until a certified copy of an order
13 making such appointment is filed with the department,
14 to the surviving spouse or other heir otherwise entitled
15 to conduct the business of the deceased, permitting such
16 person to exercise the privileges granted by such license
17 for a period of one year from and after the date of death
18 and necessary one-year renewals thereafter, pending, but
19 not later than, disposal of the business and qualification
20 of the vendee of the business or such surviving spouse,
21 heir or other persons for such license under the
22 provisions of this article. The department may restrict or
23 condition the license and attach to the exercise of the
24 privileges thereunder such terms and conditions as in its
25 judgment the protection of the public requires.

26 18072.7. The licenses provided for in this article shall be
27 automatically canceled upon any of the following:

28 (a) The abandonment of the established place of
29 business of the dealer or the change thereof without
30 notice to the department as provided in Section 18071.7.

31 (b) The failure of the licensee to maintain an adequate
32 bond or to procure and file another bond as provided in
33 Section 18071.3 prior to the effective date of the
34 termination by the surety of an existing bond.

35 (c) The voluntary or involuntary surrender for any
36 cause by the licensee of the licenses. However, such
37 surrender or the cessation of business by the licensee, or
38 the suspension of the corporate charter of the licensee by
39 the State of California, shall not prevent the filing of an
40 accusation for revocation or suspension of the

1 surrendered license as provided in Section 18070.8 and
2 the department's decision that such license should be
3 suspended or revoked. Furthermore, such determination
4 may be considered in granting or refusing to grant any
5 subsequent license authorized by this division to such
6 licensee, copartner, or any officer, director, or
7 stockholder of such prior licensee.

8 (d) Notification that the person designated as licensee
9 has changed.

10 (e) Suspension or cancellation of the corporate
11 charter of the licensee by the State of California.

12 18072.8. The bond provided for in Section 18071.3 shall
13 not be conditioned to protect the monetary interest of a
14 financing agency which has loaned money to a licensee
15 or assignee thereof. However, as to any conditional sales
16 contract, as defined in Section 2981 of the Civil Code,
17 acquired by way of purchase or pledge, a financing
18 agency shall be entitled to protection under such bond if
19 such agency is defrauded by a licensee.

20 18072.9. The department may require that fees shall be
21 paid to the department for the issuance or renewal of a
22 license to do business as a mobilehome dealer,
23 manufacturer, manufacturer branch, distributor,
24 distributor branch, or representative. Such fees shall
25 reimburse the department for costs incurred in licensing
26 such dealers, manufacturers, distributors, branches and
27 representatives.

28 18073.1. Any mobilehome dealer, manufacturer,
29 manufacturer branch, distributor, distributor branch, or
30 representative required to be licensed under this chapter
31 who fails to make application for such license when
32 required shall, in addition to the fees required pursuant
33 to Section 18072.9, pay a penalty of 50 percent of the
34 license fee.

35 18073.2. The revocation or suspension of a license of a
36 manufacturer, manufacturer branch, distributor,
37 distributor branch, or representative may be limited to
38 one or more municipalities or counties or any other
39 defined area, or may be revoked or suspended in a
40 defined area only as to certain aspects of its business, or

1 as to a specified dealer or dealers.

2

3 Article 2. Mobilehome Salespersons' Licenses

4

5 18073.3. It is unlawful for any person to act as a
6 mobilehome salesperson without having first procured a
7 license or temporary permit issued by the department or
8 when such license or temporary permit issued by the
9 department has been canceled, suspended, revoked, or
10 invalidated or has expired.

11 18073.4. (a) The department shall prescribe and
12 provide forms to be used for application for license to be
13 issued under the terms and provisions of this article and
14 require of such applicants, as a condition precedent to
15 issuance of any such license, such information touching
16 on and concerning the applicant's character, honesty,
17 integrity, and reputation as it may consider it necessary.
18 However, every application for a mobilehome
19 salesperson's license shall contain, in addition to such
20 information as the department may require, a statement
21 of the following facts:

22 (1) Name and address of the applicant.

23 (2) Whether the applicant has ever had a court
24 judgment rendered for which he or she has been liable as
25 a result of his or her activities in conjunction with an
26 occupational license under this chapter and whether
27 such judgment remains unpaid or unsatisfied.

28 (3) Whether the applicant ever had a license, issued
29 under the authority of this chapter revoked, suspended,
30 or subjected to other disciplinary action and whether the
31 applicant was ever a partner in a partnership or an
32 officer, director, or stockholder in a corporation licensed
33 under the authority of this chapter the license of which
34 was revoked, suspended, or subject to other disciplinary
35 action.

36 (b) The department shall issue a license bearing a full
37 face photograph of the licensee and the following
38 information:

39 (1) Name and address.

40 (2) Physical description.

1 (3) The licensee's usual signature.

2 (4) Distinguishing vehicle salesperson's license
3 number.

4 18073.5. Pending the satisfaction of the department
5 that the applicant has met the requirements under this
6 chapter, it may issue a temporary permit to any person
7 applying for a mobilehome salesperson's license. The
8 temporary permit shall permit the operation by the
9 salesperson for a period not to exceed 120 days while the
10 department is completing its investigation of the
11 applicant for such a license. If the department
12 determines to its satisfaction that the temporary permit
13 was issued upon a fraudulent application or determines
14 or has reasonable cause to believe that the application is
15 incorrect or incomplete or the temporary permit was
16 issued in error, the department may cancel the
17 temporary permit, and such cancellation shall be
18 effective immediately. If, however, the department
19 determines that the information in the application is
20 correct and complete, the temporary permit shall
21 become invalid when the department issues, or refuses to
22 issue, a license, unless within five days of receipt of a
23 notice of refusal to issue and statement of issues, the
24 applicant demands a hearing pursuant to subdivision (c)
25 of Section 18073.9. The filing of a demand for a hearing
26 shall stay the effective date of the invalidation of the
27 temporary permit, pending a hearing and a
28 determination of the issues. The notice of refusal to issue
29 shall become effective and final five days after its receipt
30 by the applicant.

31 18073.6. The department may issue, or for reasonable
32 cause shown, refuse to issue a license to any applicant
33 applying for a mobilehome salesperson's license.

34 18073.7. The department, after notice and hearing, may
35 refuse to issue, or may suspend or revoke, a mobilehome
36 salesperson's license when it determines any of the
37 following:

38 (a) The applicant or licensee has outstanding an
39 unsatisfied final court judgment rendered in connection
40 with an activity licensed under the authority of this part.

1 (b) The applicant or licensee has failed to pay over
2 funds or property received in the course of employment
3 to a dealer entitled thereto.

4 (c) The applicant or licensee has acted as a
5 mobilehome salesperson or engaged in such activity for,
6 or on behalf of, more than a single person whose business
7 does not have identical ownership and structure. Such
8 activity shall be for a licensed dealer. Nothing contained
9 in this section shall be deemed to restrict the number of
10 dealerships of which a person may be an owner, officer
11 or director, nor to preclude a mobilehome salesperson
12 from working at more than one location of such single
13 dealer, if the business of such dealer has identical
14 ownership and structure.

15 (d) The applicant or licensee has acted as a
16 mobilehome salesperson without having first complied
17 with Section 18074.1.

18 18073.8. Every hearing as provided for in this chapter
19 shall be conducted pursuant to the provisions of Chapter
20 5 (commencing with Section 11500) of Part 1 of Division
21 3 of Title 2 of the Government Code.

22 18073.9. (a) The department may, pending a hearing,
23 temporarily suspend the license issued to a mobilehome
24 salesperson for a period not to exceed 30 days if the
25 director finds that such action is required in the public
26 interest. In any such case, a hearing shall be held and a
27 decision thereon issued within 30 days after notice of the
28 temporary suspension.

29 (b) Except where the provisions of this chapter
30 require the refusal to issue a license, the department may
31 issue a probationary license subject to conditions to be
32 observed by the licensee in the exercise of the privilege
33 granted. The conditions to be attached to the exercise of
34 the privilege shall be such as may, in the judgment of the
35 department, be in the public interest and suitable to the
36 qualifications of the applicant as disclosed by the
37 application and investigation by the department of the
38 information contained therein.

39 (c) If the department issues or renews a mobilehome
40 salesperson's license requiring conditions of probation or

1 if the department refuses to issue a mobilehome
2 salesperson's license, the applicant shall be entitled to
3 demand in writing a hearing before the director or his or
4 her representative within 60 days after notice of refusal
5 to issue or issuance of the probationary license.

6 (d) A person whose license has been revoked or whose
7 application for a license has been denied may reapply for
8 such license after a period of not less than one year has
9 elapsed from the effective date of the decision revoking
10 the license or denying the application. However, if such
11 decision was based upon subdivision (a) of Section
12 18073.7, an earlier reapplication may be made
13 accompanied by evidence satisfactory to the department
14 that such grounds no longer exist.

15 18074.1. (a) Every mobilehome salesperson shall, at
16 time of employment, deliver to his or her employing
17 dealer his or her salesperson's license to be posted in a
18 place conspicuous to the public on the premises where he
19 or she is actually engaged in the selling of vehicles for the
20 employing dealer.

21 (b) The license shall be displayed continuously during
22 such employment. In the event a mobilehome
23 salesperson's employment is terminated, the license shall
24 be returned to the salesperson.

25 (c) Every dealer shall notify the department
26 immediately by mail of the employment or termination
27 of a mobilehome salesperson.

28 (d) Every mobilehome salesperson shall report in
29 writing to the department every change of residence
30 address within five days of such change.

31 18074.2. (a) Every original mobilehome salesperson's
32 license issued after January 1, 1976, shall expire on the
33 third birthdate of the applicant following the date of the
34 application for the license.

35 (b) Renewal of any mobilehome salesperson's license
36 shall be made for a term which shall expire on the third
37 birthdate of the applicant following the expiration of the
38 license renewed.

39 (c) Renewal of a mobilehome salesperson's license
40 may be made more than 90 days prior to the expiration

1 date, but an additional fee shall be added if the renewal
2 is not made within 30 days prior to expiration. However,
3 in no event may a mobilehome salesperson renew his or
4 her license after the date of expiration.

5 (d) A salesperson shall obtain a duplicate license when
6 the original is either lost or mutilated.

7 18074.4. It is unlawful for any person to do any of the
8 following:

9 (a) To lend a salesperson's license to any other person
10 or knowingly permit the use thereof by another.

11 (b) To display or represent any salesperson's license
12 not issued to the person as being his or her license.

13 (c) To fail or refuse to surrender to the department,
14 upon its lawful demand, any salesperson's license which
15 has been suspended, revoked or cancelled.

16 (d) To permit any unlawful use of a salesperson's
17 license issued to him or her.

18 (e) To photograph, photostat, duplicate, or in any way
19 reproduce any salesperson's license or facsimile thereof
20 in such a manner that it could be mistaken for a valid
21 license, or to display or have in possession any such
22 photograph, photostat, duplicate, reproduction, or
23 facsimile unless authorized by the provisions of this
24 chapter.

25 18074.5. The mobilehome salesperson's license or any
26 permit provided in this chapter shall be automatically
27 cancelled upon the failure of a licensee to file an
28 application for renewal of the license or permit before
29 the date of expiration of the current license or permit.

30 18074.55. The suspension, expiration, or cancellation of
31 a mobilehome salesperson's license provided for in this
32 chapter shall not prevent the filing of an accusation for
33 the revocation or suspension of the suspended, expired,
34 or cancelled license as provided in Section 18073.8, and
35 the department's decision that such license should be
36 suspended or revoked. Such determination may be
37 considered in granting or refusing to grant any
38 subsequent license authorized by this division to such
39 licensee.

1 Article 3. Representatives' Licenses

2
3 10874.6. It is unlawful for any person to act as a
4 representative without having first procured a license or
5 temporary permit issued by the department or when
6 such license or temporary permit has been canceled,
7 suspended, revoked, or invalidated or has expired.

8 18074.7. The department shall prescribe and provide
9 forms to be used for application for licenses to be issued
10 under the terms and provisions of this chapter and
11 require of such applicants, as a condition precedent to
12 issuance of such license, such information touching on
13 and concerning the applicant's character, honesty,
14 integrity and reputation as it may consider necessary.
15 Every application for a representative's license shall
16 contain, in addition to such information as the
17 department may require, a statement of the following
18 facts:

19 (a) Name and address of the applicant.

20 (b) Whether the applicant has ever had a court
21 judgment rendered for which he or she has been liable as
22 a result of his or her activity in connection with an
23 occupation licensed under this chapter and whether such
24 judgment remains unpaid or unsatisfied.

25 (c) Whether the applicant ever had a license, issued
26 under the authority of this chapter, revoked, suspended,
27 or subjected to other disciplinary action and whether the
28 applicant was ever a partner in a partnership or an
29 officer, director, or stockholder in a corporation licensed
30 under the authority of this chapter, the license of which
31 was revoked, suspended, or subjected to other
32 disciplinary action.

33 (d) Name, address, and license number of the
34 manufacturer, manufacturer branch, distributor, or
35 distributor branch employing the applicant.

36 18074.8. (a) The department shall issue a
37 representative's license when satisfied that the applicant
38 has furnished the required information, and that he or
39 she intends in good faith to act as a representative and has
40 paid fees as established by the department.

1 (b) The department may refuse to issue or may
2 suspend or revoke a license, when satisfied on any of the
3 following:

4 (1) The information contained in the application is
5 incorrect.

6 (2) The applicant or licensee, based on the
7 information contained in the application or by
8 subsequent investigation, is not of good moral character.

9 The conviction of a crime, including a conviction after
10 a plea of nolo contendere, involving moral turpitude shall
11 be prima facie evidence that the applicant or licensee is
12 not of good moral character.

13 (3) The applicant or licensee has outstanding an
14 unpaid final court judgment rendered in connection with
15 an activity licensed under the authority of this chapter.

16 (4) The applicant or licensee was previously the
17 holder of or was a partner in a partnership or was an
18 officer, director, or stockholder involved in management
19 of a corporation which was the holder of a license and
20 certificate issued under this chapter, which license and
21 certificate were revoked for cause and never reissued by
22 the department or which license and certificate were
23 suspended for cause and the terms of suspension have not
24 been fulfilled.

25 (5) The applicant or licensee has committed any of
26 these acts prohibited by Section 18071.8.

27 (c) Pending the satisfaction of the department that
28 the applicant has met the requirements under this
29 chapter, it may issue a temporary permit to any person
30 applying for a representative's license. The temporary
31 permit shall permit the operation by the representative
32 for a period not to exceed 120 days while the department
33 is completing its investigation and determination of all
34 facts relative to the qualifications of the applicant to such
35 a license. Such temporary permit shall be invalid when
36 the applicant's license has been issued or refused.

37 (d) The department may issue a probationary
38 representative's license upon any ground or grounds
39 contained in subdivision (b) of this section subject to
40 conditions to be observed in the exercise of the privilege

1 granted either upon application for issuance of a license
2 or upon application for renewal of a license. The
3 conditions to be attached to the exercise of the privilege
4 shall not appear on the face of the license but shall be
5 such as may, in the judgment of the department, be in the
6 public interest and suitable to the qualificatins of the
7 applicant as disclosed by the application and
8 investigation by the department of the information
9 contained therein.

10 18074.9. (a) If the department suspends or revokes a
11 representative's license, the licensee shall be entitled to
12 an appropriate hearing. Such hearing shall be conducted
13 pursuant to Chapter 5 (commencing with Section 11500)
14 of Part 1 of Division 3 of Title 2 of the Government Code.

15 (b) If the department issues or renews a
16 representative's license requiring conditions of probation
17 or if the department refuses to issue such license, the
18 applicant shall be entitled to demand in writing a hearing
19 as hereinabove provided before the director or his or her
20 representative within 60 days after notice of refusal or
21 issuance of the probationary license.

22 (c) A person whose representative's license has been
23 revoked or whose application for a license has been
24 denied may reapply for such license after a period of not
25 less than one year has elapsed from the effective date of
26 the decision revoking the license or denying the
27 application. However, if such decision was based upon
28 paragraph (3) or (4) of subdivision (b) of Section 18074.8
29 an earlier reapplication may be made accompanied by
30 evidence satisfactory to the department that such
31 grounds no longer exist.

32 18074.91. Every representative's license issued
33 hereunder shall expire at midnight on the 30th day of
34 June of each year.

35 18074.93. Every application for the renewal of a
36 representative's license which expires on the 30th day of
37 June shall be made by the person to whom issued
38 between June 1st and midnight of June 30th preceding
39 such expiration date and shall be made by presenting the
40 application form provided by the department and by

1 payment of the full annual renewal fee for such license as
2 established by the department.

3 18074.95. The representative's license, or any permit
4 provided for in this chapter, shall be automatically
5 cancelled upon the failure of the licensee to file an
6 application for renewal of the license or permit before
7 July 1st following the expiration date of the current
8 license or permit.

9 18074.97. The suspension, expiration, or cancellation of
10 the representative's license provided for in this chapter
11 shall not prevent the filing of an accusation for revocation
12 or suspension of the suspended, expired, or cancelled
13 license as provided in Section 18074.90, and the
14 department's decision that such license should be
15 suspended or revoked. Such determination may be
16 considered in granting or refusing to grant any
17 subsequent license to such licensee.

18 18074.99. Upon issuance by the department to the
19 licensee, the license provided in this article shall be
20 immediately delivered and posted in a place conspicuous
21 to the public at the place of business of the manufacturer,
22 manufacturer's branch, distributor, distributor's branch
23 from which the representative is directly supervised and
24 shall be continuously exhibited in such place while the
25 representative is employed by such employer.

26 In the event a representative's employment is
27 terminated, the license shall be forwarded to the
28 department by the manufacturer, manufacturer's
29 branch, distributor, distributor's branch not later than the
30 end of the third business day after termination.

31 SEC. 26. Section 5353 of the Vehicle Code is amended
32 to read:

33 5353. The registration provisions of this article shall not
34 apply to any of the following:

35 (a) Any trailer coach which is driven or moved upon
36 a highway in conformance with the provisions of this
37 code relating to dealers, manufacturers, transporters, or
38 nonresidents or under a temporary permit issued by the
39 department as authorized by Section 4156 hereof or
40 under a one-trip permit issued by the department as

1 authorized by Section 4003 when such permit is issued to
2 a nonresident.

3 (b) Any unoccupied trailer coach which is part of an
4 inventory of trailer coaches held for sale by a
5 manufacturer or dealer in the course of his business.

6 (c) Any mobilehome being used as an office, as
7 ~~specified in subdivision (b) of Section 11709.5~~ permitted
8 by Section 18071.2 of the Health and Safety Code .

9 SEC. 27. Section 5356 of the Vehicle code is amended
10 to read:

11 5356. (a) Commencing July 1, 1976, every trailer coach
12 which is in excess of eight feet wide or in excess of 40 feet
13 long *or mobilehome, as defined in Section 18008 of the*
14 *Health and Safety Code*, may be issued a registration
15 decal. The design of such decal shall be determined by
16 the director and the decal shall be issued by the
17 department or designee. Such decal shall be at least 2½
18 inches high and 2½ inches wide.

19 (b) Such decals shall be applied to the outside of the
20 coach *or mobilehome* in a location within 15 inches of the
21 lower front right-hand side which is clearly visible and
22 such decals shall be maintained in a condition so as to be
23 clearly legible.

24 (c) Notwithstanding other provisions of this code,
25 such decal issued by the department or designee to any
26 trailer coach *or mobilehome* pursuant to subdivision (a)
27 of this section shall be in lieu of any license plate issued
28 to such trailer coach *or mobilehome* . Provisions of this
29 code which relate to the issuance of license plates by the
30 department shall have the same applicability to any decal
31 issued pursuant to this section except for the display and
32 size of such decal as herein specified.

33 SEC. 28. Section 9250 of the Vehicle Code is amended
34 to read:

35 9250. (a) A registration fee of eleven dollars (\$11) shall
36 be paid to the department for the registration of every
37 vehicle *or mobilehome* of a type subject to registration,
38 except as are expressly exempted under this code from
39 the payment of registration fees.

40 The registration fee imposed by this section shall apply

1 to all vehicles described in Section 5004, whether or not
2 special identification plates are issued to such vehicle.

3 (b) Mobilehomes registered under the provisions of
4 Section 5350.6 shall be subject to the fee provided in
5 subdivision (a) for each unit of the mobilehome.

6 SEC. 29. Section 11704.5 of the Vehicle Code is
7 repealed.

8 ~~11704.5. (a) Except as otherwise provided in this~~
9 ~~section, every applicant for a mobilehome dealer's or~~
10 ~~salesman's license, and every vehicle salesman who~~
11 ~~commences working for a mobilehome dealer, shall,~~
12 ~~commencing July 1, 1976, be required to take, and~~
13 ~~successfully complete, a written examination, prepared~~
14 ~~and administered by the department. Such examination~~
15 ~~shall include, but not be limited to, subjects relating to~~
16 ~~mobilehomes, laws relating to contracts for the sale of~~
17 ~~vehicles, laws covering truth in lending, and~~
18 ~~departmental and warranty requirements.~~

19 ~~(b) The department may administer an oral~~
20 ~~examination in lieu of the written examination required~~
21 ~~by subdivision (a) under the following conditions:~~

22 ~~(1) To any person who applies for a mobilehome~~
23 ~~salesman's license.~~

24 ~~(2) To any person who applies for a mobilehome~~
25 ~~dealer's license, provided the person is not the sole owner~~
26 ~~of the dealership and other persons within the ownership~~
27 ~~structure meet the requirements of subdivisions (a) and~~
28 ~~(b).~~

29 ~~(c) No person who, on July 1, 1976, held a then valid~~
30 ~~salesman's license and who has continuously for the same~~
31 ~~employer been a salesman of mobilehomes shall be~~
32 ~~required to take the examination specified in subdivision~~
33 ~~(a).~~

34 ~~(d) No person who, on July 1, 1976, held a then valid~~
35 ~~dealer's license and who has continuously without lapse~~
36 ~~been a mobilehome dealer shall be required to take the~~
37 ~~examination specified in subdivision (a), regardless of~~
38 ~~whether such person subsequently makes an application~~
39 ~~to do business under a different name or form of business~~
40 ~~organization, except that a salesman of mobilehomes who~~

1 makes an application for a mobilehome dealer's license
2 shall be required to take, and successfully complete, the
3 examination specified in subdivision (a).

4 (e) If the applicant for a mobilehome dealer's license
5 is a corporation, only those persons who will participate
6 in the direction, control, or management, or any
7 combination thereof, of the sales operations of the
8 business, or who act in the capacity of vehicle salesmen,
9 shall be required to take and successfully complete the
10 examination specified in subdivision (a), except that if no
11 officer or director of the corporation participates in the
12 direction, control, or management, or any combination
13 thereof, of the sales operations of the business, or acts in
14 the capacity of a vehicle salesman, the corporation shall
15 designate and maintain a responsible managing
16 employee who is a licensed vehicle salesman and who
17 shall be required to take, and successfully complete, the
18 examination specified in subdivision (a) for a dealer's
19 license before a dealer's license may be issued.

20 (f) If the applicant for a mobilehome dealer's license
21 is a partnership, only those partners of the partnership
22 who will participate in the direction, control, or
23 management, or any combination thereof, of the sales
24 operation of the business, or who acts in the capacity of
25 vehicle salesman shall be required to take and
26 successfully complete the examination specified in
27 subdivision (a).

28 SEC. 30. Section 11704.6 of the Vehicle Code is
29 repealed.

30 11704.6. Every person who applies to the department
31 to take the examination required under Section 11704.5
32 for applicants for a mobilehome dealer's or salesperson's
33 license shall pay to the department a fee equal to the
34 actual cost to the department for preparing and
35 administering the examination, or fifty dollars (~~\$50~~),
36 whichever is less.

37 SEC. 31. Section 11705 of the Vehicle Code is amended
38 to read:

39 11705. (a) The department, after notice and hearing,
40 may suspend or revoke the license issued to a dealer,

1 transporter, manufacturer, manufacturer branch,
2 distributor, or distributor branch upon determining that
3 the person to whom the license was issued is not lawfully
4 entitled thereto, or has committed any of the following
5 acts:

6 (1) Filed an application for the license thereafter
7 issued using a false or fictitious name not registered with
8 the proper authorities, or knowingly made any false
9 statement or knowingly concealed any material fact, in
10 the application for such license.

11 (2) Has made, or knowingly or negligently permitted,
12 any illegal use of the special plates issued to such licensee.

13 (3) Has used a false or fictitious name, knowingly
14 made any false statement, or knowingly concealed any
15 material fact, in any application for the registration of a
16 vehicle, or otherwise committed a fraud in such
17 application.

18 (4) Failed to deliver to a transferee lawfully entitled
19 thereto a properly endorsed certificate of ownership.

20 (5) Has knowingly purchased, sold, or otherwise
21 acquired or disposed of a stolen motor vehicle.

22 (6) Failed to provide and maintain a clear physical
23 division between the type of business licensed pursuant
24 to this chapter and any other type of business conducted
25 at the established place of business.

26 (7) Has willfully violated any of the terms or
27 provisions of Sections 3064 and 3065 or rules and
28 regulations adopted pursuant thereto or adopted
29 pursuant to Section 1651.

30 (8) Has violated one or more of the terms and
31 provisions of Division 3 (commencing with Section 4000)
32 or a rule or regulation adopted pursuant thereto, or
33 Section 1651, or subdivision (a) of Section 38200.

34 (9) Has violated one or more of the terms and
35 conditions of Division 4 (commencing with Section
36 10500) or the rules and regulations adopted pursuant
37 thereto or adopted pursuant to Section 1651.

38 (10) Has violated one or more of the provisions of
39 Article 1 (commencing with Section 11700) of Chapter 4
40 of Division 5 or rules and regulations adopted pursuant

1 thereto or adopted pursuant to Section 1651.

2 (11) Has violated any of the terms or provisions of Part
3 5 (commencing with Section 10701) of Division 2 of the
4 Revenue and Taxation Code or rules and regulations
5 adopted pursuant thereto or adopted pursuant to Section
6 1651 of this code.

7 (12) Has violated any of the terms or provisions of
8 Chapter 2b (commencing with Section 2981) of Title 14
9 of Part 4 of Division 3 of the Civil Code or the rules and
10 regulations adopted pursuant thereto under the
11 authority of Section 1651 of this code.

12 (13) Has submitted a check, draft, or money order to
13 the department for any obligation or fee due the state
14 and it is thereafter dishonored or refused payment upon
15 presentation.

16 (14) Has caused any person to suffer any loss or
17 damage by reason of any fraud or deceit practiced on him
18 or fraudulent representations made to such person in the
19 sale or purchase of a vehicle or parts or accessories
20 thereof.

21 ~~(15) Has violated any of the terms and conditions of~~
22 ~~Chapter 3 (commencing with Section 1707) of Title 1.7 of~~
23 ~~Part 4 of Division 3 of the Civil Code.~~

24 ~~(16) Has violated any of the terms or provisions of~~
25 ~~Chapter 6 (commencing with Section 11950) of Division~~
26 ~~5.~~

27 ~~(17)~~

28 (15) Has failed to meet the terms and conditions of an
29 agreement effected under the provisions of Section
30 11707.

31 For the purposes of this subdivision, the term “fraud”
32 includes any act or omission which is included within the
33 definition of either “actual fraud” or “constructive fraud”
34 as defined in Sections 1572 and 1573 of the Civil Code, and
35 the term “deceit” has the same meaning as defined in
36 Section 1710 of the Civil Code. In addition, the terms
37 “fraud” and “deceit” include, but are not limited to, the
38 following: a misrepresentation in any manner, whether
39 intentionally false or due to gross negligence, of a
40 material fact; a promise or representation not made

1 honestly and in good faith; an intentional failure to
 2 disclose a material fact; any act falling within the
 3 provisions of Section 484 of the Penal Code.

4 (b) Any of the causes specified in Section 11703 as a
 5 cause for refusal to issue a license to a transporter,
 6 manufacturer, manufacturer branch, distributor,
 7 distributor branch, or dealer applicant shall be cause to
 8 suspend or revoke a license issued to a transporter,
 9 manufacturer, manufacturer branch, distributor,
 10 distributor branch, or dealer.

11 (c) Except as provided in Section 11707, every hearing
 12 as provided for in this section shall be pursuant to the
 13 provisions of Chapter 5 (commencing with Section
 14 11500) of Part 1 of Division 3 of Title 2 of the Government
 15 Code.

16 SEC. 32. Section 11705.2 of the Vehicle Code is
 17 repealed.

18 ~~11705.2. (a) The department, after notice and hearing,~~
 19 ~~may suspend or revoke the license issued to a dealer,~~
 20 ~~transporter, manufacturer, manufacturer branch,~~
 21 ~~distributor, or distributor branch upon determining that~~
 22 ~~the person to whom the license was issued is not lawfully~~
 23 ~~entitled thereto, or has violated any of the provisions of~~
 24 ~~Part 2 (commencing with Section 18000) of Division 13~~
 25 ~~of, or Section 18613 of, the Health and Safety Code or any~~
 26 ~~rules and regulations issued pursuant thereto.~~

27 ~~(b) Every hearing as provided for in this section shall~~
 28 ~~be pursuant to the provisions of Chapter 5 (commencing~~
 29 ~~with Section 11500) of Part 1 of Division 3 of Title 2 of the~~
 30 ~~Government Code.~~

31 SEC. 33. Section 11705.5 of the Vehicle Code is
 32 repealed.

33 ~~11705.5. The department, after notice and hearing, may~~
 34 ~~suspend or revoke the license issued to a mobilehome~~
 35 ~~dealer upon determining that the person to whom the~~
 36 ~~license was issued has committed any of the following~~
 37 ~~acts:~~

38 ~~(a) While acting under the authority of Section~~
 39 ~~11713.6, entered into an exclusive listing agreement that~~
 40 ~~did not include a specified date upon which the~~

1 agreement was to terminate.

2 (b) While acting under the authority of Section
3 11713.6, claimed or took any secret or undisclosed amount
4 of compensation, commission, fee, or profit or fails to
5 divulge to his principal the full amount of such
6 compensation, commission, fee, or profit prior to, or at
7 the time that, a contractual agreement is signed whereby
8 all parties involved, after negotiation, have come to
9 terms; provided, however, that this section shall not be
10 construed to require the disclosure of any exclusive
11 financial arrangements agreed upon between the
12 mobilehome dealer and any financial institution with
13 regard to financial arrangements applicable solely to
14 them.

15 (c) While acting under the authority of Section
16 11713.6, used any provision allowing an option to
17 purchase in an agreement authorizing or employing such
18 mobilehome dealer to sell, buy, or exchange
19 mobilehomes for compensation or commission, except
20 when such mobilehome dealer, prior to or coincident
21 with the election to exercise such option to purchase,
22 reveals in writing to the employer the full amount of a
23 mobilehome dealer's profit and obtains the written
24 consent of the employer approving the amount of such
25 profit.

26 SEC. 34. Section 11709 of the Vehicle Code is amended
27 to read:

28 11709. (a) A dealer's established place of business and
29 such other sites or locations as may be operated and
30 maintained by such dealers in conjunction with their
31 established place of business shall have posted in a place
32 conspicuous to the public in each and every location the
33 license issued by the department to the dealer and to
34 each salesman employed by the dealer and shall have
35 erected or posted thereon such signs or devices providing
36 information relating to the dealer's name, the location
37 and address of such dealer's established place of business
38 to enable any person doing business with such dealer to
39 identify him properly. Every such sign erected or posted
40 on an established place of business, shall have an area of

1 not less than two square feet per side displayed, and shall
2 contain lettering of sufficient size to enable the sign to be
3 read from a distance of at least 50 feet.

4 (b) Notwithstanding the provisions of Section 11704
5 and this section, a dealer may display vehicles at a fair,
6 exposition or similar exhibit without securing a branch
7 license providing no actual sales are made at such events,
8 and that such display does not exceed 30 days.

9 ~~(c) Mobilehomes may also be displayed as a model
10 home within a mobilehome park, mobilehome
11 subdivision, mobilehome planned unit development, or
12 mobilehome cooperative, until the mobilehome park,
13 mobilehome subdivision, mobilehome planned unit
14 development, or mobilehome cooperative has reached 70
15 percent occupancy.~~

16 ~~(d)~~

17 (c) All vehicles displayed pursuant to subdivision (b)
18 ~~or (e)~~ shall be identified by a sign or device providing
19 information relating to the dealer's name and the
20 location and address of such dealer's established place of
21 business.

22 ~~(e)~~

23 (d) This section shall not be applicable to a dealer who
24 deals only in off-highway vehicles subject to
25 identification as defined in Section 38012.

26 SEC. 35. Section 11709.5 of the Vehicle Code is
27 repealed.

28 ~~11709.5. (a) A mobilehome dealer may be licensed to
29 sell mobilehomes at a branch location office without a
30 display area as long as all other provisions of this section
31 are met. The provisions of this subdivision are applicable
32 to the sale of used mobilehomes only, and only as a branch
33 location office which is not within a mobilehome park.~~

34 ~~(b) Any new, unregistered mobilehome which is
35 displayed at a mobilehome fair or exposition, not
36 exceeding 30 days, may be used as an office required
37 pursuant to Section 320.~~

38 As used in this section, "mobilehome fair or exposition"
39 means a display of mobilehomes by two or more dealers,
40 except in a mobilehome park, for a period not to exceed

1 30 days.

2 SEC. 36. Section 11713 of the Vehicle Code is amended
3 to read:

4 11713. It shall be unlawful and a violation of this code
5 for the holder of any license issued under this article:

6 (a) To make or disseminate or cause to be made or
7 disseminated before the public in this state, in any
8 newspaper or other publication, or any advertising
9 device, or by public outcry or proclamation, or in any
10 other manner or means whatever, any statement which
11 is untrue or misleading, and which is known, or which by
12 the exercise of reasonable care should be known, to be
13 untrue or misleading; or to so make or disseminate or
14 cause to be so disseminated any such statement as part of
15 a plan or scheme with the intent not to sell any vehicle
16 or service so advertised at the price stated therein, or as
17 so advertised.

18 (b) To advertise or offer for sale or exchange in any
19 manner, any vehicle not actually for sale at the premises
20 of such dealer or available to said dealer from the
21 manufacturer or distributor of such vehicle at the time of
22 the advertisement or offer ; ~~provided however, that this~~
23 ~~subdivision does not apply to advertising or offering for~~
24 ~~sale or exchange any used mobilehome, as defined by~~
25 ~~Section 18008 of the Health and Safety Code, or used~~
26 ~~commercial coach, as defined by Section 18012 of the~~
27 ~~Health and Safety Code, other than a recreational~~
28 ~~vehicle, as defined by Section 18010.5 of the Health and~~
29 ~~Safety Code, where such advertising or offering for sale~~
30 ~~is not contrary to any terms of a contract between the~~
31 ~~seller of the mobilehome or commercial coach and the~~
32 ~~owner of the mobilehome park, and which mobilehome~~
33 ~~or commercial coach is either in place on a lot rented or~~
34 ~~leased for human habitation within an established~~
35 ~~mobilehome park, as defined in Section 18214 of the~~
36 ~~Health and Safety Code, or is otherwise located, pursuant~~
37 ~~to a local zoning ordinance or permit, on a lot where its~~
38 ~~presence has been authorized or its continued presence~~
39 ~~and such use would be authorized, for a total and~~
40 ~~uninterrupted period of at least one year .~~

1 (c) To fail within 48 hours in writing to withdraw any
2 advertisement of a vehicle that has been sold or
3 withdrawn from sale.

4 (d) To advertise or represent a vehicle as a new
5 vehicle if such vehicle falls within the purview of Section
6 665 of this code.

7 (e) To engage in the business for which licensee is
8 licensed without having in force and effect a good and
9 sufficient bond with corporate surety as hereinbefore
10 provided.

11 (f) For any licensed dealer to engage in the business
12 for which such dealer is licensed without at all times
13 maintaining an established place of business as required
14 by this code.

15 (g) To include as an added cost to the selling price of
16 a vehicle, an amount for licensing or transfer of title of the
17 vehicle, which amount is not due to the state unless, prior
18 to the sale, such amount has been paid by a dealer to the
19 state in order to avoid penalties that would have accrued
20 because of late payment of such fees. However, a dealer
21 may collect, from the second purchaser of a vehicle, a
22 prorated fee based upon the number of months
23 remaining in the registration year for that vehicle, if the
24 vehicle had been previously sold by the dealer and the
25 sale was subsequently rescinded and all the fees that were
26 paid, as required by this code and Chapter 2
27 (commencing with Section 10751) of Division 2 of the
28 Revenue and Taxation Code, were returned to the first
29 purchaser of the vehicle.

30 (h) To employ any person as a salesman who has not
31 been licensed pursuant to Article 2 (commencing with
32 Section 11800) of this chapter, and whose license is not
33 displayed on the premises of the dealer as provided in
34 Section 11812.

35 (i) To deliver, following sale, a vehicle for operation
36 on California highways, if such vehicle does not meet all
37 of the equipment requirements of Division 12
38 (commencing with Section 24000) of this code.

39 (j) To use or permit the use of the special plates
40 assigned to him for any purpose other than permitted by

1 Section 11715.

2 (k) To advertise or otherwise represent, or knowingly
3 to allow to be advertised or represented on his behalf or
4 at his place of business, that no downpayment is required
5 in connection with the sale of a vehicle when a
6 downpayment is in fact required and the buyer is advised
7 or induced to finance such downpayment by a loan in
8 addition to any other loan financing the remainder of the
9 purchase price of the vehicle.

10 (l) To participate in the sale of a vehicle reported to
11 the Department of Motor Vehicles under the provisions
12 of Section 5900 or Section 5901 of this code without
13 making the return and payment of any sales tax due and
14 required by Section 6451 of the Revenue and Taxation
15 Code.

16 (m) To permit the use of his dealer's license, supplies,
17 or books by any other person for the purpose of
18 permitting that person to engage in the sale of vehicles
19 required to be registered under this code, or to permit
20 the use of his dealer's license, supplies, or books to
21 operate a branch location to be used by any other person,
22 if, in either situation, the licensee has no financial or
23 equitable interest or investment in the vehicles sold by,
24 or the business of, or branch location used by, such
25 person, or has no such interest or investment other than
26 commissions, compensations, fees, or any other thing of
27 value received for the use of the dealer's license, supplies,
28 or books to engage in the sale of vehicles.

29 (n) To violate any of the provisions of Article 10
30 (commencing with Section 28050) of Chapter 5 of
31 Division 12 of this code.

32 ~~(o) To fail to deliver or honor the terms and conditions
33 of any warranty as set forth in Chapter 3 (commencing
34 with Section 1797) of Title 1.7 of Part 4 of Division 3 of the
35 Civil Code.~~

36 ~~(p) To violate any of the terms or provisions of
37 Chapter 6 (commencing with Section 11950) of Division
38 5.~~

39 ~~(q) Has violated any of the provisions of Part 2
40 (commencing with Section 18000) of Division 13 of, or~~

1 Section 18613 of, the Health and Safety Code or any rules
2 and regulations issued pursuant thereto.

3 SEC. 37. Section 11713.6 of the Vehicle Code is
4 repealed.

5 ~~11713.6. A mobilehome dealer may solicit or obtain
6 listings of, engage in the multiple listing with other
7 licensed mobilehome dealers of, or engage in payments
8 to another mobilehome dealer, dealers, or multiple
9 groups of dealers, pursuant to cooperative brokering and
10 referral arrangements, or agreements on the sale of, any
11 used mobilehome which has been registered under the
12 authority of this code for at least one year.~~

13 SEC. 38. Chapter 6 (commencing with Section 11950)
14 of Division 5 of the Vehicle Code is repealed.

15 SEC. 39. Section 34500 of the Vehicle code is amended
16 to read:

17 34500. The Department of the California Highway
18 Patrol shall regulate the safe operation of the following
19 vehicles:

20 (a) Motortrucks of three or more axles.

21 (b) Truck tractors.

22 (c) Buses and schoolbuses.

23 (d) Trailers, semitrailers, pole or pipe dollies, auxiliary
24 dollies, and logging dollies used in combination with
25 motortrucks of three or more axles, truck tractors, buses,
26 or schoolbuses.

27 (e) Any combination of a two-axle truck and any
28 vehicle or vehicles set forth in subdivision (d) that
29 exceeds 40 feet in length when coupled together.

30 (f) Any truck, or any combination of a truck and any
31 other vehicle, transporting hazardous materials.

32 (g) Trailer coaches which, when moved upon the
33 highway, are required to be moved under a permit as
34 specified in Section 35780 or 35790.

35 *(h) Mobilehomes, as defined in Section 18008 of the*
36 *Health and Safety Code, when moved upon the highway*
37 *under a permit issued pursuant to Section 35790.5.*

38 SEC. 40. Section 35790.5 is added to the Vehicle Code,
39 to read:

40 35790.5. (a) The Department of Transportation or

1 local authorities with respect to highways under their
2 respective jurisdictions may upon application in writing
3 and if good cause appears, issue a special or annual permit
4 in writing authorizing the applicant to move a
5 mobilehome, as defined in Section 18008 of the Health
6 and Safety Code, in excess of the maximum widths and
7 lengths otherwise permitted under this code for vehicles
8 upon any highway under the jurisdiction of the party
9 granting such permit.

10 (b) To the extent of applicability the Department of
11 Transportation or local authorities with respect to
12 highways under their respective jurisdictions may apply
13 any reasonable provision of this code applicable to
14 vehicles to any permit or permits issued for
15 mobilehomes.

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